

**FREEDOM OF INFORMATION
AND
PRIVACY ACTS**

Subject: Hiss / Chambers

File Number: 65-14920

*Section: New York (Bulky Exhibits)
Part 1 of 7*



FEDERAL BUREAU OF INVESTIGATION

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BULKY EXHIBIT

Date received 10-11-49

JAFAM

65-14920 - 1B

(Title of case)

Submitted by Special Agent T. G. Spencer

Source from which obtained AUSA T. F. Murphy

Address _____

Purpose for which acquired Investigation

Location of bulky exhibit In cabinet with file

Estimated date of disposition Undetermined

Ultimate disposition to be made of exhibit Retain

List of contents:

483. Motion papers for Change of Venue from the Southern District of New York to the District of Vermont, filed by EDWARD C. Mc LEAN.

#32

65-14920-1B-288	
F. B. I.	
OCT 11 1949	
N. Y. C.	
ROUTED TO	<i>[Signature]</i>

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA, :

-against- :

ALGER HISS, :

Defendant. :

----- X

S I R S:

PLEASE TAKE NOTICE that upon the indictment and all the proceedings heretofore had herein and upon the annexed affidavits of Edward C. McLean, verified October 4, 1949, Robert W. Mitchell, verified September 19, 1949, Marina Salvin, verified October 4, 1949, Lawrence S. Finkelstein, verified October 4, 1949, Daniel W. West, verified October 4, 1949, Cornelius DuBois, verified October 4, 1949, Louis Hill, verified September 30, 1949 and Louise A. Torian, verified October 4, 1949, the undersigned will move this court at Room 318 in the United States Court House, Foley Square, Borough of Manhattan, City of New York, on October 10, 1949 at 10:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard for an order, pursuant to Rule 21(a) of the Federal Rules of Criminal Procedure, transferring this proceeding to the District of Vermont, upon the ground that there exists in the Southern District of New York so great a prejudice against the defendant that he cannot obtain a fair and impartial trial in that District, and granting to defendant

such other and further relief as may be just and proper.

Dated: New York, N. Y.
October 4, 1949

DEBEVOISE, PLIMPTON & McLEAN

Edmund C. McLean

A Member of the Firm
Attorneys for Defendant
Office and P. O. Address
20 Exchange Place
Borough of Manhattan
City of New York, 5

TO: JOHN F. X. McGOHEY, ESQ.
United States Attorney
United States Court House
Foley Square
New York, N. Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA, :

-against- :

ALGER HISS, :

Defendant. :

----- X

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

EDWARD C. McLEAN, being duly sworn, deposes and
says:

I am an attorney at law and a member of the firm
of Debevoise, Plimpton & McLean, attorneys for the defen-
dant in this action. I make this affidavit in support of
defendant's motion for an order, pursuant to Rule 21(a)
of the Federal Rules of Criminal Procedure, transferring
this proceeding to the District of Vermont.

Briefly stated, the grounds of this motion are
that the publicity which has been given to this case before,
during and after the first trial, by the newspapers and
periodicals circulating in the Southern District of New
York, has been of such unprecedented volume and in some
respects of such extraordinary virulence that the defendant
cannot obtain a fair and impartial trial in this District
before a jury which has not already formed an opinion on
the merits of his case.

I am informed by Vermont counsel and verily
believe that the United States District Court for the
District of Vermont is now sitting in Rutland, Vermont.
I am further informed that the jurors who serve in the

United States District Court for the District of Vermont when it is sitting in Rutland are drawn from the counties of Rutland, Bennington and Addison. It appears from the affidavits submitted herewith that the publicity which has been given to the case in the newspapers most commonly read in these counties has been much more limited in scope and more temperate in tone. There is good reason to believe, therefore, that the prejudicial atmosphere which has been created in the Southern District of New York does not obtain in Vermont and that a fair and impartial trial can more readily be had in that District.

The Indictment

The indictment contains two counts each for the crime of perjury allegedly committed by defendant on December 15, 1948. The first count alleges that on or about December 15, 1948, the Grand Jurors duly impanelled and sworn in the United States District Court for the Southern District of New York were conducting an investigation of possible violations of the espionage laws and that it was material to that investigation to ascertain whether United States statutes had been violated by the unlawful abstraction or removal of secret, confidential or restricted documents, writings, sketches, notes or other papers by persons employed by the United States Government or by the furnishing, delivery or transmittal of any such documents, writings, sketches, notes or other papers to any unauthorized persons. It is charged that the defendant, a witness before said Grand Jury, testified under oath on December 15, 1948 that he had not turned over to one Whittaker Chambers any documents of the State Department or of any other government organization, or any copies of such

documents, and that the said testimony was false in that the defendant "being then and there employed in the Department of State, in or about the months of February and March 1938, furnished, delivered and transmitted to one Jay David Whittaker Chambers, who was not then and there a person authorized to receive the same, copies of numerous secret, confidential and restricted documents, writings, notes and other papers, the originals of which had theretofore been removed and abstracted from the possession and custody of the Department of State."

The second count of the indictment alleges that defendant further testified before the Grand Jury on December 15, 1948 that he thought he could say definitely that he had not seen said Whittaker Chambers after January 1, 1937, and that that testimony was untrue in that "the defendant did in fact see and converse with the said Mr. Chambers in or about the months of February and March 1938."

The government's bill of particulars makes it clear that the occasions on which the defendant allegedly saw and conversed with the said Chambers, as charged in the second count, are the same occasions as those referred to in the first count on which the defendant allegedly transmitted documents to Chambers.

Events Prior to the Indictment

The events which preceded the finding of the indictment in this case have some relevance to the issues presented by this motion. They may be briefly summarized as follows:

In July and August 1948, the Committee on Un-American Activities of the House of Representatives held certain hearings with respect to alleged Communist activities in the United States. During the course of those hearings, Whittaker Chambers testified that the defendant Hiss had been a member of a Communist "apparatus" in Washington in the period from 1934 to 1937. Upon learning of these accusations, Mr. Hiss appeared before the Committee at his own request in August 1948 and denied the charges. Shortly thereafter, Chambers repeated his accusations in a radio broadcast. Thereupon, in September 1948, Mr. Hiss brought an action against Chambers for defamation in the United States District Court for the District of Maryland.

On November 17, 1948 in the course of his examination before trial in that action, Chambers produced certain documents purporting to be copies or summaries of official State Department documents. He testified that Mr. Hiss had delivered them to him in January, February and March 1938.

Shortly thereafter, on or about December 3, 1948, Chambers produced and delivered to representatives of the House Un-American Activities Committee certain strips of film which he had concealed in a pumpkin on his farm at Westminster, Maryland. The film contained photographs of various official government documents some of which purported to be documents in the files of the State Department.

Mr. Hiss directed that the documents produced by Chambers on November 17, 1948 be delivered forthwith to the Department of Justice. This was done within a few days after November 17, 1948. Thereupon, the Grand Jury for the Southern District of New York, which had been engaged for

almost a year and a half in an investigation of alleged Communist activities, undertook an investigation of the circumstances under which Chambers had obtained possession of the documents. Mr. Niss testified as a witness before that Grand Jury on a number of occasions from December 7, 1948 to December 15, 1948. On December 15, the day of his last appearance before the Grand Jury and the last day of the Grand Jury's legal existence, Mr. Niss was asked the questions and made the answers which form the subject matter of the indictment handed up by the Grand Jury on that day.

The Trial

The issue joined by defendant's plea of not guilty to the indictment was tried before the Honorable Samuel H. Kaufman, United States District Judge, and a jury from May 31, 1949 until July 8, 1949. After many hours of deliberation, the jury was unable to agree upon a verdict and was discharged by the court. The United States Attorney has notified deponent that he intends to move the case for retrial on October 10, 1949.

Newspaper Publicity

An extraordinary amount of space has been devoted to this case by the New York newspapers ever since August 1948. The hearings before the House Committee in August 1948 were front-page news in the New York newspapers for many days. Considerable coverage was also given to the institution of the libel suit in September 1948 and to the production of the films from the pumpkin in December 1948. Further extended publicity occurred upon the finding of the indictment.

The trial before Judge Kaufman was reported with a fullness which deponent verily believes to be unprecedented in this District. The case was first-page news in practically every metropolitan paper throughout the six weeks of the trial. The testimony was reported in detail and some newspapers reproduced large portions of it verbatim.

Not only did the New York newspapers give minute attention to what transpired in the court room, but many of them also devoted considerable space to collateral aspects of the case apart from the trial itself. Columnists and feature writers made extended comment on the case. At the conclusion of the trial, considerable comment was forthcoming from certain members of Congress and others, all of which was reported in full in the press. Even during the interval between the conclusion of the trial and the present time, articles on the case have continued to appear in New York newspapers.

Many of these manifold newspaper articles were, in deponent's opinion, of a nature highly prejudicial to the defendant. These articles will be referred to in detail hereinafter. In general, they fall into certain definite classifications:

1. Publication during the trial of alleged evidence that was not submitted to the jury and which, in some cases, had actually been excluded by the trial judge.
2. Attacks upon certain witnesses called by the defendant.
3. Attacks upon the trial judge and upon the integrity of this court.
4. Attacks upon certain jurors and interviews with jurors setting forth their comments upon the trial and their opinions of the court and their fellow jurors.

*Franklin
Reed
W. Young*

Each of these will be considered briefly hereinafter.

1. Publication of Alleged Evidence That was not before the Jury.

There were several instances of this. In some cases, the articles referred to alleged facts which had not been offered in evidence at the trial. In other cases, they referred to testimony which had been offered and had been excluded by the trial court. Illustrations are as follows:

(a) On June 4, 1949, while the government's chief witness, Whittaker Chambers, was still on the witness stand, the New York World Telegram published an article dealing with certain alleged testimony that Chambers was stated to have given before a secret session of the House Un-American Activities Committee on December 28, 1948. No such testimony was offered at the trial. A copy of the said article is annexed hereto marked Exhibit 1 and made a part hereof.

(b) On June 23, Malcolm Cowley, a witness for the defendant, testified at the trial to a conversation which he had had with Whittaker Chambers in December 1940. No evidence whatsoever was offered by the government at the trial to contradict Mr. Cowley's testimony. Nevertheless, on the next day, June 24, during the course of the trial, a statement by Chambers contradicting Mr. Cowley's testimony was published in certain New York newspapers. Copies of such articles are annexed hereto marked respectively Exhibits 2 and 3 and made a part hereof.

(c) On June 16, Henry Julian Wadleigh, a former officer of the State Department, testified as a witness for the government that he had regularly abstracted State Department documents and had delivered them to Whittaker Chambers and other Communist agents. The trial judge sustained an objection to a question addressed to Wadleigh as to his reasons for engaging in these activities. On the next day, Wadleigh answered the question in an article in the New York Post Home News entitled "Wadleigh Tells Why He Spied". A copy of the said article is annexed hereto marked Exhibit 4 and made a part hereof.

(d) The government attempted to call one Hede Massing as a rebuttal witness. Her testimony was excluded by the trial judge as incompetent. The court also ruled that the prosecution could not call her to the witness stand. Thereafter, an article was published in the New York World Telegram on July 1, 1949 setting forth a purported summary of the testimony that Mrs. Massing allegedly would have given. A copy of the article is annexed hereto marked Exhibit 5 and made a part hereof.

2. Attacks upon Defense Witnesses

On June 22, 1949, two justices of the United States Supreme Court, Mr. Justice Stanley F. Reed and Mr. Justice Felix Frankfurter, testified as character witnesses for the defendant. Each of these witnesses was well qualified to give such character testimony by reason of his prior acquaintance with the defendant. That same acquaintance would require each of them to disqualify him-

self from participating in any consideration of this case by the Supreme Court.

The testimony of these two justices was the occasion of comment by a columnist, one Westbrook Pegler, which was published in the New York Journal American on June 28 and July 1, 1949 while the trial was still in progress. Copies of Mr. Pegler's articles are annexed hereto marked respectively Exhibits 6 and 7 and made a part hereof.

Editorials on the subject were also published during the course of the trial by the New York Daily Mirror on June 28 and by the New York Journal American on June 29. Copies of the said editorials are annexed hereto marked respectively Exhibits 8 and 9 and made a part hereof.

3. Attacks upon the Trial Judge

On June 4, 1949, shortly after the trial had begun, an article by Leslie Gould referring to Judge Kaufman was published in the New York Journal American. A copy of the article is annexed hereto marked Exhibit 10 and made a part hereof.

A further article on this subject by Mr. Gould was published in the New York Journal American on June 30 while the trial was still in progress. A copy of that article is annexed hereto marked Exhibit 11 and made a part hereof.

On June 30, 1949, an article by Westbrook Pegler was published in the New York Journal American in which Mr. Pegler not only made comments derogatory to Judge Kaufman but also attempted to cast doubt upon the integrity of federal courts in general. A copy of the said article is annexed hereto marked Exhibit 12 and made a part hereof.

The New York Journal American continued its apparent campaign on this subject with another article by Mr. Gould in the issue of July 1, 1949, a copy of which is annexed hereto marked Exhibit 13 and made a part hereof.

Articles Relating to the Jury

On July 8, 1949, while the jury was still engaged in its deliberations, articles were published in the New York Journal American and the New York World Telegram which attempted to create the impression that the foreman of the jury was prejudiced in the defendant's favor. Copies of these articles are annexed hereto marked Exhibits 14 and 15 respectively and made a part hereof.

After the jury disagreed and was discharged, the jurors were interviewed by reporters and their opinions about the trial were given wide publicity. These opinions included pronouncements upon questions of law involved in rulings of the trial court. They also included attacks by the jurors who voted for conviction upon those jurors who voted for acquittal. Samples of articles on this subject are two appearing in the New York Journal American and one in the New York World Telegram under date of July 9, 1949, copies of which are marked respectively Exhibits 16, 17 and 18 and made a part hereof. Another illustration is found in an article in the New York Daily Mirror published on July 10, 1949, a copy of which is annexed hereto marked Exhibit 19 and made a part hereof.

Samples of articles quoting opinions of certain jurors about the rulings of the trial court are those appearing in the New York Herald Tribune and New York Journal American under date of July 12, copies of which are annexed hereto marked Exhibits 20 and 21 and made a part hereof.

Comments by Congressmen After the Trial

As soon as the trial was ended, several members of the House Committee on Un-American Activities gave voice to their opinions about the case and the handling of the trial. These statements were critical of the trial judge and highly prejudicial to the defendant. Thus, Congressman Nixon stated that "A full investigation should immediately be made of the fitness of Judge Kaufman to serve on the bench in view of his conduct during the trial." Congressman Case gave his version of what the excluded testimony of Mrs. Massing would have been, stating, "Mrs. Massing was understood to be ready to testify as to her knowledge of Alger Hiss's connection with the spy apparatus in 1936."

Congressman Cox made the following statement with respect to the prosecutor at the trial: "Almost single-handed, he fought against what was apparently a conspiracy to cheat the law and liberate a traitor."

Congressman Velde remarked, referring to the trial, "That thing in New York stank to high heaven."

All of these prejudicial comments were given wide publicity in the New York press. Samples are articles in the New York Herald Tribune under date of July 10 and July 11, 1949, copies of which are annexed hereto marked Exhibits 22 and 23 respectively and made a part hereof. Certain of the articles were of a particularly sensational character. Illustration of these are articles, copies of which are annexed hereto marked respectively Exhibits 24 to 28, inclusive, and made a part hereof.

Mr. Pegler added his voice to the general uproar with two essays published in the New York Journal American on July 12 and July 16, respectively, copies of which are

annexed hereto marked Exhibits 29 and 30.

On July 10, Robert P. Patterson, President of the Association of the Bar of the City of New York, formerly a United States Circuit Judge and formerly Secretary of War, issued a statement deploring the attempt of certain Congressmen to interfere with the free action of the courts. Immediately, certain newspapers which had been most aggressive in their attacks upon the conduct of the trial, turned their attention to Judge Patterson and a series of articles was published which, among other things, quoted a letter which he had written to the defendant Hiss on August 4, 1949 long prior to the indictment. Copies of such articles are annexed hereto marked Exhibits 31, 32 and 33 respectively and made a part hereof.

The controversy continued, with Congressman Multer defending the court's handling of the case and Congressman Keefe denouncing it. Both points of view were reported at length, as is shown by articles in the New York Herald Tribune of July 17 and July 19, copies of which are annexed hereto marked respectively Exhibits 34 and 35 and made a part hereof.

Because Judge Kaufman had stated during the course of the trial that it was unfortunate that there had been so much comment about the case in the press, he was accused by Congressman Macy of attempting to "intimidate" the press. These charges were duly made public as is shown by the article in the New York Times of July 14, a copy of which is annexed hereto marked Exhibit 36 and made a part hereof.

A bill to prohibit justices of the Supreme Court from appearing as character witnesses was introduced in Congress. This resulted in more publicity. See as examples articles in the New York Times and New York Herald Tribune of July 17, copies of which are annexed hereto marked Exhibits 37 and 38 respectively and made a part hereof.

Recent Publicity

The hubbub in the metropolitan press about this case has not by any means disappeared since the trial. For example, Henry Julian Wadleigh, the ex-State Department officer who testified for the government, wrote his memoirs in the New York Post Home News entitled "Why I Spied for the Communists". These articles appear over a number of days. A sample is the article of July 24, 1949, a copy of which is annexed hereto marked Exhibit 39 and made a part hereof, in which Mr. Wadleigh makes public an explanation of his testimony at the trial.

A magazine known as "Plain Talk" published large portions of the prosecutor's summation.

Mr. Peger published further comment of a prejudicial nature in the New York Journal American of August 31, 1949. A copy of the article is annexed hereto marked Exhibit 40 and made a part hereof.

As recently as September 23, the New York World Telegram has commented upon what it characterizes as "Last summer's unseemly appearance of two United States Supreme Court justices, Frankfurter and Reed, as character witnesses in the Hiss trial", a copy of said article is

annexed hereto marked Exhibit 41 and made a part hereof.

Sworn to before me this
4th day of October, 1949.

Edmond C. [Signature]

Aurelia M. Addison

[Seal]

AURELIA M. ADDISON
Notary Public, in the State of New York
Residing in Kings County
State Co. Clk's No. 16, R-g No. 219-40
N.Y. Co. Clk's No. 44, R-g. No. 321-40
Notary County Clerk's No. 8-A-60
Westchester County
Commission Expires March 30, 1950

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X,
UNITED STATES OF AMERICA, :
 -against- :
ALGER HISS, :
 Defendant. :
-----X

STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

MARINA SALVIN, being duly sworn, deposes and says:

1. I am a graduate of Barnard College, having received the degree of Bachelor of Arts in June 1940. In 1943 I received the degree of Master of Arts in Public Law and Government from Columbia University. Since receiving my Bachelor's degree in 1940, I have been engaged in research, study and teaching in the field of government and international relations. From the spring of 1945 until June 1949 I taught several courses in American government and international relations in the School of General Studies, Columbia University. From September 1947 until June 1949, I also taught two courses in international relations at Barnard College. From the spring of 1946 until June 1948 I was employed as part time research assistant by the Carnegie Endowment for International Peace. At the present time, I am engaged in writing my thesis for a PH.D. degree under a fellowship granted by the American Association of University Women and a fellowship granted by the Social Science Research Council.

2. On September 16 and 17, 194-, Mr. Lawrence Finkelstein and I made a survey of the Autland (Vermont)

Daily Herald and the Burlington (Vermont) Free Press for the use and benefit of counsel for Alger Hiss. The purpose of such survey was to ascertain what the Rutland Daily Herald and the Burlington Free Press had published concerning the case of Alger Hiss during and after the trial of that case. Mr. Finkelstein and I conducted our research at the Rutland Public Library and at the offices of the Rutland Daily Herald. We read all the articles and editorials concerning the Alger Hiss case that were published in the Rutland Daily Herald and the Burlington Free Press during the period from May 31, 1949 to July 31, 1949, inclusive, except for two issues of the Burlington Free Press that were missing. Certain portions of some of the issues of these newspapers had been excised but to the best of my knowledge, the excised matters did not relate to the Alger Hiss case.

Mr. Finkelstein and I divided our work; he read the issues of the Burlington Free Press from May 31, 1949 to June 30, 1949, inclusive and the issues of the Rutland Daily Herald for the month of July 1949; and I read the issues of the Rutland Daily Herald from May 31, 1949 to June 30, 1949, inclusive, and the issues of the Burlington Free Press for the month of July 1949.

3. No news article concerning the Alger Hiss case appeared in the Rutland Daily Herald on any of the following days: May 31, June 1, 6, 13, 14, 20, 21, 22, 27, 1949. Moreover, since the Rutland Daily Herald is not published on Sunday, there was, of course, no article or editorial concerning the case on June 5, 12, 19 and 26, 1949.

News articles relating to the trial were published in the Rutland Daily Herald on the other days in June 1949.

All of these articles were regular Associated Press dispatches. These articles were concise and unemotional and contained brief recitals of the proceedings that took place at the trial. In a number of instances, the headline and the first few lines of the articles covered two columns but never any more than two columns. In such instances, the main body of the article itself followed in a single column. In no instance was the main body of the article more than one column in width. Most of the articles were about one column in length.

4. There was no editorial comment concerning the Alger Hiss case in the Rutland Daily Herald during the period from May 31 until June 30, 1949, inclusive, except for comments appearing in syndicated columns. During this period the Rutland Daily Herald carried only the columns of Marquis Childs, Thomas L. Stokes and Robert Ruark. There was no comment concerning the case in the columns of Messrs. Stokes and Ruark during this period. The column of Marquis Childs on June 18, June 24 and June 27, 1949 contained comments about the case. In these columns, Mr. Childs summarized the career of Alger Hiss, referred to the problem of meeting the expenses of his defense, and designated the case as the American Dreyfus case.

5. During the period from May 31 to June 30, 1949, inclusive, no article or editorial in the Rutland Daily Herald contained any comment concerning the prejudice or lack of prejudice of the foreman of the jury, any attack on Judge Kaufman or his conduct at the trial, any criticism of the Governor or rulings of Judge Kaufman or any criticism of the action of Mr. Justice Reed and Mr. Justice Frankfurter in testifying as character witnesses for Alger Hiss. More-

over, during this period, the Rutland Daily Herald did not in any way publish any testimony relating to the case by any person except for testimony that had actually been given in evidence before the jury in the trial of the case.

6. No news article concerning the Alger Hiss case appeared in the Burlington Free Press on any of the following days: July 4, 5, 12, 13, 14, 15 and 16, nor on July 20 through July 31, 1949, inclusive. Moreover, since the Burlington Free Press is not published on Sunday, there was, of course, no article or editorial concerning the case on July 3, 10, 17, 1949.

News articles covering the actual trial were published in the Burlington Free Press on July 1, 3, 6, 7, 8 and 9, 1949. All of these articles were regular Associated Press dispatches. These articles were concise and unemotional and contained brief recitals of the proceedings that took place at the trial. In a number of instances, the headline and the first few lines of the articles covered two columns but never any more than two columns. In such instances, the main body of the article itself followed in a single column. In no instance was the main body of the article more than one column in width. Most of the articles were about one column in length.

7. After the trial, on July 18 and 19, 1949, articles were published relating to attacks in Congress against the conduct of the trial by Judge Kaufman, attacks in Congress upon the conduct of Justices Reed and Frankfurter in testifying as character witnesses for Alger Hiss, the announcement of Congressman Keating that he would introduce a bill to prohibit Supreme Court justices from testifying as character witnesses, and President Truman's and Judge

Patterson's public statements in defense of Judge Kaufman's conduct of the trial. Two of these articles were published in two column boxes, but the aggregate length of these articles was never in excess of a full column.

8. There was no editorial comment concerning the Alger Hiss case in the Burlington Free Press during the month of July 1949 except for the column of Marquis Childs on July 19, 1949. During July 1949, the Burlington Free Press carried only the columns of Marquis Childs, David Lawrence and Earl L. Douglass. There was no comment about the case in the columns of Messrs. Lawrence and Douglass during this period. The column of Marquis Childs on July 19, 1949 contained a discussion of the so-called feud between Judge Kaufman and the members of Congress who had attacked him. This article was favorable to Judge Kaufman.

9. During the entire month of July 1949, there was no article or editorial in the Burlington Free Press which contained any comment concerning the prejudice or lack of prejudice of the foreman of the jury and no articles containing any statements of jurors criticizing other jurors or the trial judge or commenting on the evidence. Except for the statements made by members of Congress, the Burlington Free Press published nothing about the Alger Hiss case following the conclusion of the trial and throughout the balance of July, 1949.

Sworn to before me this Marina Salvia
5th day of October, 1949.
Aurelia M. Addison

AURELIA M. ADDISON
Notary Public, in the State of New York
Residing in Kings County
Reg. No. 12148
N.Y. County No. 61, Reg. No. 2148
Kings County Clerk's No. 2428
Windsor County
Commission Expires March 31, 1950

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA, :
 -against- :
ALGER HISS, :
 Defendant. :

-----X
STATE OF NEW YORK) ss.:
) :
COUNTY OF NEW YORK)

LAWRENCE S. FINK 1ST.216, being duly sworn,
deposes and says:

1. I am a graduate of Columbia College, having received the degree of Bachelor of Arts in June, 1944. In December, 1947, I received the degree of Master of Arts in Public Law and Government from Columbia University. I have fulfilled all requirements for the degree of Doctor of Philosophy in International Law and Relations except for the dissertation. From July, 1944, until January, 1945, I was a trainee, under the sponsorship of the National Institute of Public Affairs, in the Division of International Security and Organization of the State Department. From February, 1945 until March, 1946, I was employed in the Division of Dependent Area Affairs of the State Department. From April, 1946 until June, 1947, I was employed by the United Nations in the Trusteeship Division. In all of these positions I was engaged chiefly in research work, including writing studies, surveys and reports. From July, 1947 until June, 1948, I was assistant to Professor Philip C. Jessup at the School

of International Affairs, Columbia University. From September, 1948 until August, 1949, I was an instructor in Government in the School of General Studies, Columbia University. I am now employed by the Council on Foreign Relations on a research project.

2. On September 16 and 17, 1949, Miss Marina Salvin and I made a survey of the Rutland (Vermont) Daily Herald and the Burlington (Vermont) Free Press for the use and benefit of counsel for Alger Hiss. The purpose of such survey was to ascertain what the Rutland Daily Herald and the Burlington Free Press had published concerning the case of Alger Hiss during and after the trial of that case. Miss Salvin and I conducted our research at the Rutland Public Library and at the offices of the Rutland Daily Herald. We read all the articles and editorials concerning the Alger Hiss case that were published in the Rutland Daily Herald and the Burlington Free Press during the period from May 31, 1949 to July 31, 1949, inclusive, except for the issues of the Burlington Free Press of June 2 and 24, 1949, which were missing. Certain portions of some of the issues of these newspapers had been excised but, to the best of my knowledge, the excised matters did not relate to the Alger Hiss case.

Miss Salvin and I divided our work as follows: she read the issues of the Rutland Daily Herald from May 31, 1949 to June 30, 1949, inclusive, and the issues of the Burlington Free Press for the month of July, 1949; and I read the issues of the Burlington Free Press from May 31, 1949 to June 30, 1949, inclusive, and the issues of the Rutland Daily Herald for the month of July, 1949.

3. No news article concerning the Alger Hiss case appeared in the Burlington Free Press on any of the

following days: May 31, June 1, 6, 11, 13, 20, 21, 22 and 27, 1949. Moreover, since the Burlington Free Press is not published on Sunday, there was no article or editorial concerning the case on June 5, 12, 19 and 26, 1949.

News articles relating to the trial were published in the Burlington Free Press on the other days in June, 1949, except possibly on the days referred to above for which the issues were missing. All of these articles were regular Associated Press dispatches. These articles were for the most part concise and unemotional and contained brief recitals of the proceedings which took place at the trial. In a number of instances the articles were two columns in width but never more than two columns. In the other instances the articles were only one column in width. All of the articles were considerably less than one column in length.

4. During this period the only syndicated columns carried by the Burlington Free Press were those of Marquis Childs, David Lawrence and Earl L. Douglass. There was no comment concerning the case in the columns of Messrs. Lawrence and Douglass. The columns of Marquis Childs appearing in the Burlington Free Press on June 20th and June 25th, 1949 were identical with the columns of Mr. Childs which appeared in the Rutland Daily Herald on June 18th and June 24th, 1949, respectively. In these columns Mr. Childs commented favorably on the action of Judge Kaufman in excluding certain documents from evidence, summarized the career of Alger Hiss and referred to the problem of meeting the expenses of his defense.

5. During the period from May 31 to June 30, 1949, inclusive, no article or editorial in the Burlington

Free Press contained any comment concerning the prejudice or lack of prejudice of the foreman of the jury, any attack on Judge Kaufman or his conduct at the trial, any criticism of the action of Mr. Justice Reed and Mr. Justice Frankfurter in testifying as character witnesses for Alger Hiss. Moreover, during this period, the Burlington Free Press did not in any way publish any testimony relating to the case by any person except for testimony that had actually been given in evidence before the jury in the trial of the case.

6. No news article concerning the Alger Hiss case appeared in the Rutland Daily Herald on any of the following days: July 4, 5, 12, 13, 14, 15 and 16, 1949, nor on July 20 through July 31, 1949, inclusive. Moreover, since the Rutland Daily Herald is not published on Sunday, there was, of course, no article or editorial concerning the case on July 3, 10 or 17, 1949.

News articles covering the actual trial were published in the Rutland Daily Herald on July 1, 2, 6, 7 and 8, 1949. These articles were concise and, for the most part, unemotional, and contained brief recitals of the proceedings which took place at the trial. In one instance the article was two columns in width, and in all other instances the articles were only one column in width. All of the articles were considerably less than one column in length.

7. After the trial, on July 9, 11, 18 and 19, 1949, articles were published in the Rutland Daily Herald relating to interviews with certain jurors concerning the

deliberations of the jury, to attacks by Congressmen upon the conduct of the trial by Judge Kaufman and upon the conduct of Justices Reed and Frankfurter in testifying as character witnesses for Alger Hiss, containing statements of Congressman Velde and Nixon demanding a Congressional investigation of the trial of the case and Congressman Keefe's statement that the case had been "fixed", and containing President Truman's and Judge Patterson's statements in support of Judge Kaufman. These articles were in all cases Associated Press dispatches. Two of them were about 20 inches in length and the others not more than 8 inches in length.

8. There was no editorial comment concerning the Alger Hiss case in the Rutland Daily Herald during the month of July, 1949, except for the column of Marquis Childs on July 18, 1949. The only syndicated columns carried by the Rutland Daily Herald during that month were those of Marquis Childs, Thomas L. Stokes and Robert Ruark. There was no comment concerning the case in the columns of Messrs. Stokes and Ruark in July, 1949. The column of Marquis Childs on July 18, 1949 contained a discussion of the so-called feud between Judge Kaufman and the members of Congress who had attacked him. This article was favorable to Judge Kaufman.

9. Except for the matters mentioned above, the Rutland Daily Herald published nothing about the Alger Hiss

case following the conclusion of the trial and through
the balance of July, 1949.

(sgd) Lawrence J. Finkelstein

Sworn to before me this
4th day of October, 1949.

(Seal)

AURELIA M. ADDISON
Notary Public, in the State of New York
Residing in Kings County
Kings Co. C.N.'s No. 16, R. g. No. 219 A-0
N. Y. Co. C.N.'s No. 44, R. g. No. 321 A-0
Nassau County Clerk's No. 3-A-50
Westchester County
Commission Expires March 30, 1950

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

----- X
UNITED STATES OF AMERICA,)

Plaintiff,)

--against-)

ALGER HISS,)

Defendant.)
----- X

AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF NEW YORK)

ss.:

DANIEL W. WEST, being duly sworn, deposes and says:

1. I am an attorney at law and am associated with the firm of Debevoise, Plimpton & McLean, attorneys for defendant in this action. I make this affidavit in support of the defendant's motion for a transfer of this proceeding from the Southern District of New York to the District of Vermont, pursuant to Rule 21 (a) of the Federal Rules of Criminal Procedure.

2. On Friday, September 30, 1949, I examined the official annual audit report for the year ending September 30, 1948 of the Audit Bureau of Circulations. This is the latest official annual audit report of that organization. The table of circulation data annexed hereto as Exhibit "A" was compiled by me from the statistics contained in the above mentioned report. I am informed and I do believe that the information contained in Exhibit "A" presents an accurate picture of the circulation of the listed newspapers in the New York metropolitan area and in Addison, Washington and Rutland Counties, Vermont.

3. The Audit Bureau of Circulations is an

independent organization primarily concerned with the gathering of circulation data. The reports for the year ending September 30, 1948 upon which Exhibit "A" is based were prepared by independent public accountants employed by the Audit Bureau of Circulations who had audited the books and records of each of the newspapers listed in that exhibit. The circulation reports of the Audit Bureau of Circulations are accepted throughout the publishing industry as the standard, impartial source of circulation information.

4. The circulation figures set forth in the table annexed hereto as Exhibit "A" are based upon the circulation report for Addison, Bennington and Rutland Counties, Vermont on Thursday, September 16, 1948 and, in the case of Sunday circulation, that of September 19, 1948. These two days were selected by the Audit Bureau of Circulations as representative of average yearly circulation. The circulation reported for the New York metropolitan area is the average daily circulation for the year ending September 30, 1948.

Daniel W. West

Sworn to before me this
4th day of October, 1949.

Lucille Buckley

LUCILLE BUCKLEY
Notary Public, State of New York
No 24-0481730
Qualified in Kings County,
New York with Kings and New York
County and Register's Office
Term Expires March 30, 1951

EXHIBIT A

Circulation of New York Daily and Sunday Newspapers
in Addison, Bennington and Rutland Counties, Vermont
and in New York City Trading Area*

<u>Newspapers, Alphabetically</u>	<u>Addison County</u>	<u>Bennington County</u>	<u>Rutland County</u>	<u>New York City Trading Area</u>
<u>Daily</u>				
Herald-Tribune	147	728	479	254,304
Journal-American	†	31	50	656,134
Mirror	†	415	348	939,674
News	92	778	690	2,105,018
Post-Home News	†	†	†	367,369
Sun	†	†	†	288,258
Times	63	532	468	426,117
World-Telegram	†	†	†	366,896
<u>Sunday</u>				
Herald-Tribune	510	1,327	2,420	438,649
Journal-American	27	521	595	977,315
Mirror	300	1,204	2,562	1,169,315
News	600	2,097	5,220	2,502,034
Post-Home News	†	†	†	284,762
Times	260	862	1,664	612,986
<u>Population, 1940 Census</u>	<u>17,944</u>	<u>22,286</u>	<u>45,638</u>	

† Less than 25 copies.

* The New York City Trading Area includes New York City and surrounding territory for a 50-mile radius. On information and belief, no separate figures are collected for the territory embraced in the Southern District of New York.

Source: Annual Audit Report, for year ending September 30, 1948, of Audit Bureau of Circulations.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
UNITED STATES OF AMERICA, :
 :
Plaintiff :
 :
-against- :
 :
ALGER HISS, :
 :
Defendant :
----- X

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

CORNELIUS DU BOIS, being duly sworn, deposes
and says:

1. I am President of Cornelius Du Bois & Company, Inc. I received a Bachelor of Arts degree from Harvard University in 1926. From 1937 until 1942, exclusive of the years 1942 and 1943, I was Research Director for Life Magazine. During the 1942-43 period when I was not employed by Life, I was Deputy Chief of the Bureau of Intelligence of the Office of Facts and Figures. This bureau was later merged into the Office of War Information. My function as Deputy Chief of the Bureau of Intelligence was to coordinate the techniques of analysis used by the United States Government in its public opinion research. I am one of the founders of the American Association for Public Opinion Research, and I am a past president of the Market Research Council.

I resigned from Life in February of 1948 to organize Cornelius Du Bois & Company, Inc. This company is engaged in market and opinion research for advertisers and publishers. It also conducts labor- and community-attitude surveys for industrial organizations.

2. Cornelius Du Bois & Company, Inc. was retained by Debevoise, Plimpton & McLean to investigate the state of public opinion in the Alger Hiss case in New York

City and in Rutland, Vermont. The purpose of this investigation was to determine the extent to which people had made up their minds in advance of the second trial and to determine the impact of the New York metropolitan press upon public opinion.

The technique of investigation used was standard sampling procedure. First, a questionnaire was prepared. A copy of this questionnaire is annexed hereto as Exhibit "A". Then interviewers were instructed to draw two separate samples. One sample was chosen from the telephone books of the respective cities. Names were chosen at random at systematic intervals through the telephone directories and the persons so chosen interviewed over the telephone. This sample, I believe, is truly representative of the phone-book population. The other sample was a street sample. Street interviews were conducted in central business and shopping districts of the respective cities. In New York, these areas ranged from 10th Street to 59th Street and from 8th Avenue to Lexington Avenue. No attempt was made to contact any special district in either city. The names and addresses of almost all of those interviewed were obtained. After the interviews had been completed, the questionnaires were returned to the New York office of Cornelius Du Bois & Company, Inc. and there tabulated and analyzed under my direction.

In New York the telephone interviews were conducted by Mrs. Mary Roth and Mrs. Angeline Buckman; the street interviews by Mrs. Mary Roth, Miss Geraldine Shay and Mr. Alvin Silverman, operating under the direction of Mrs. Louise McCarthy Du Bois. In Rutland the telephone interviews were done by Mrs. Iona Jasmin and the street interviews by Mrs. C. L. Wilson. All of the above named are experienced interviewers.

In both New York and Rutland a few interviews were discarded because the person interviewed was under 21 years of age. In New York City, six interviews were discarded because the persons interviewed gave addresses outside of the Southern District of New York. There remained 206 usable interviews in New York and 186 in Rutland, Vermont.

3. The basic findings of this survey are summarized in the table annexed hereto as Exhibit "B". From those findings I conclude that people in New York City are more likely to have made up their minds about the case than those in Rutland, Vermont. On the other hand, people in Rutland are more likely to be uninformed or to have no opinion. This is demonstrated by the bar graph annexed hereto as Exhibit "C".

The differences in opinion between New York and Rutland which emerge from the total survey also appear in the breakdown figures given in Exhibit "B". Men in New York have the same kind of difference from men in Rutland as have women in the two places. Comparison of the two telephone samples and comparison of the two street samples also point to the same conclusion. This result reinforces the validity of the conclusions drawn from the total survey because it has been established as a sound principle of research that consistent differences in parts of a sample reinforce the conclusion to be drawn from the whole.

As a further test of the significance of the difference in the results between the two cities, I applied the standard testing formula developed by Dr. Theodore H.

Brown of the Harvard School of Business Administration.

This formula, which assumes randomness in sampling or equal biases in both parts of the sample being compared, is applicable to the present survey because randomness is inherent in the selective technique used in the telephone sampling and there is no reason to suspect biases in the street sample which would distort the differences in opinion between the two cities. Consequently, I believe that the differences in public opinion shown in Exhibits "B" and "C" are valid and that other valid samples of public opinion would produce the same results.

Almost all of the people interviewed in New York City were found to be readers of one or more New York papers. In Rutland, however, only 35 persons out of the 186 interviewed, about 1 in 5, were found to be readers of New York papers. It is significant that this group differs from the rest of the Rutland sample in that Rutland people who had read New York papers were more informed about the case and more likely to have made up their minds about it than those who read only Rutland papers. This is demonstrated by the bar graph annexed hereto as Exhibit "D".

Conrad W. Brown

Sworn to before me this
4th day of October, 1959.

Nathan C. Ledden

NATHAN C. LEDDEN
Notary Public in the State of New York
Qualified in Kings County
City of New York, No. 104-2-4
C.N. No. 104-2-4
Notary Expires March 26, 1960

Exhibit A

Cornelius Dubois & Company, Inc. 551 Fifth Avenue, N.Y.C.

52-9/49

Public Opinion Survey Re: Alger Hiss case

Explain: I represent Du Bois & Company, a public opinion research company doing surveys on various issues and people in the news.

1. While doing a public opinion survey on the Alger Hiss case... do you happen ever to have heard or read anything about the Alger Hiss case? Yes _____ No _____

2. Do you yourself have any opinion about the case, as to whether Alger Hiss is or is not guilty?

Innocent _____

(Write in full answers)

Guilty _____

"

Don't made up my mind _____

"

Have opinion, but don't want to say _____

"

Write in below any answers which cannot be classified above, or additional comments.

3. What daily newspapers do you read regularly? _____

(If outside of N.Y. City) Do you buy regularly or subscribe to any daily N.Y. newspaper? Yes _____ No _____

(If yes) Which one? _____

(If necessary)

4. May I have your name and address so that my interview can be verified by the company?

5. Will you tell me which of these age groups you fall into?

21-30 _____ 31-45 _____ 45-60 _____

Over 60 _____

Check Male _____ Female _____

Name _____

Address _____

City _____ Date _____

Interviewer _____

Cornelius Du Bois & Company, Inc.
 2112 14th St.

WILLIAM VERMOREL

No.	Telephone		Street		Men		Women		Total	
	Number Inter- viewed	Per- cent- age	Number Inter- viewed	Per- cent- age	Number Inter- viewed	Per- cent- age	Number Inter- viewed	Per- cent- age	Number Inter- viewed	Per- cent- age
	44	47.8	7	7.7	23	24.7	26	30.1	51	27.4
	26	27.4	15	15.9	12	12.9	19	20.4	31	16.7
		66.2		23.6		37.6		50.5		44.1
	10	10.9	31	33.0	25	26.8	16	17.2	41	22.0
		76.1		56.6		64.4		67.7		66.1
	5	5.4	4	4.2	5	5.4	4	4.3	9	4.8
	16	17.4	27	28.7	20	21.5	23	24.7	43	23.1
	1	1.1	10	10.6	8	8.6	3	3.2	11	5.9
		23.9		43.5		35.5		32.2		33.8

on the street. There were 103 men and 103 women interviewed.
 street. There were 93 men and 93 women interviewed.

EXHIBIT B

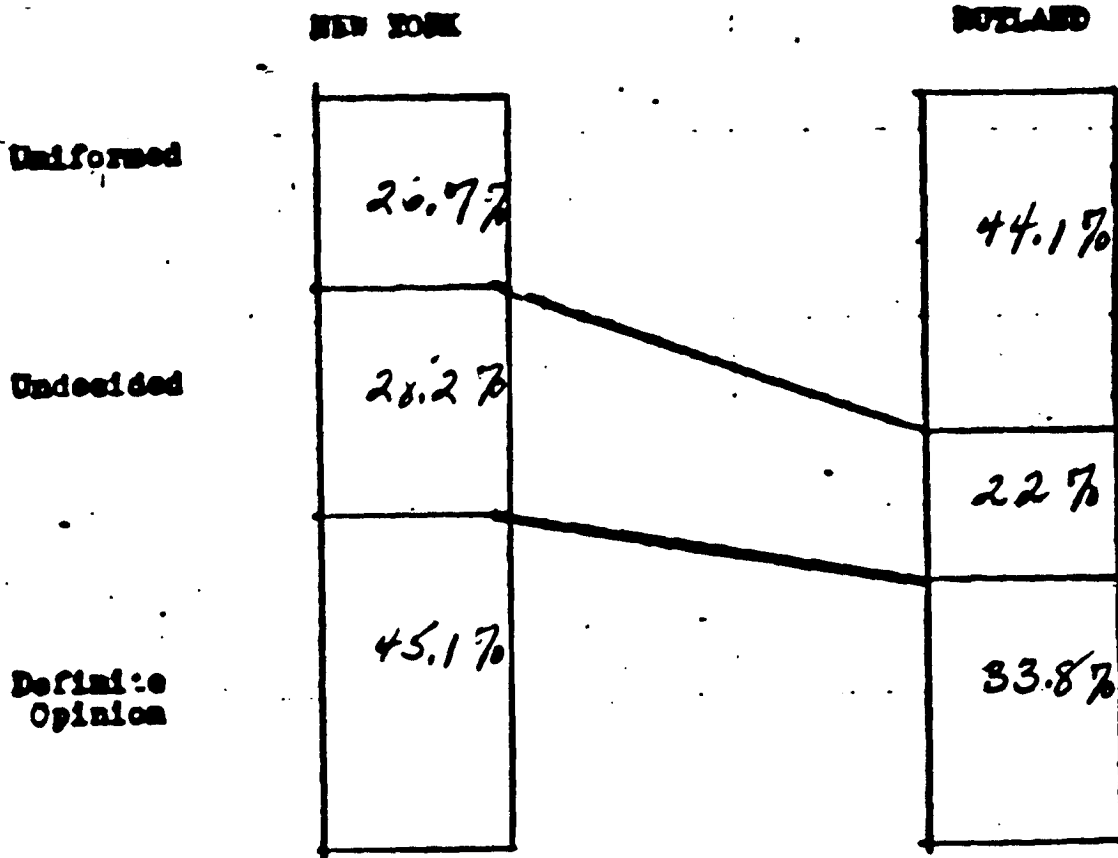
**Survey of Public Opinion Conducted
in Response to the**

NEW YORK SIX*

	Telephone		Street		Man		Woman		No Int XI
	Number Inter- viewed	Per- cent- age	Number Inter- viewed	Per- cent- age	Number Inter- viewed	Per- cent- age	Number Inter- viewed	Per- cent- age	
CLASS I									
Have not heard or read about.	31	29.8	12	11.8	15	24.6	28	27.2	4
No opinion at all; paid no attention.	9	8.7	3	2.9	6	5.8	6	5.8	12
Percentage Class I		38.5		24.7		30.4		33.0	
CLASS II									
Do not know enough; have not decided.	25	24.0	33	32.4	34	33.0	24	23.3	98
Percentage of Class I plus Class II		62.5		57.1		63.4		56.3	
CLASS III									
Have opinion, will not say; would not reveal in full.	16	15.4	7	6.9	10	9.7	13	12.6	23
Guilty	10	9.6	35	34.3	24	23.3	21	20.4	45
Innocent	13	12.5	12	11.8	14	13.6	11	10.7	25
Percentage Class III		37.5		33.0		46.6		43.7	

* Of the 206 people interviewed in New York City, 104 were interviewed by telephone and 102 on the street.
 ** Of the 186 people interviewed in England, 92 were interviewed by telephone and 94 on the street.

EXHIBIT C



Bar Graph Showing Comparative Public Opinion in New York and Rutland in Respect to the Alger Hiss Case

EXHIBIT D

READ NEW
YORK PAPERS

DO NOT READ
NEW YORK PAPERS

Other

46%

72%

Have opinion

54%

28%



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, .

- against -

ALGER HISS,

Defendant.

STATE OF NEW YORK :
COUNTY OF NEW YORK: SS.:

LOUIS HILL, being duly sworn, deposes and
says:

1. I reside at 40 Metropolitan Oval, Bronx,
N. Y.

2. I served as one of the trial jurors in the
above entitled cause.

3. Following the discharge of the trial jury
because of inability of the jurors to agree, I received
on or about July 10, 1949, a post card, post marked
New York, July 9, 7:00 P. M., addressed "Comrade Louis
Hill, 40 - Metropolitan Oval, Bronx, N. Y. U." On the
reverse side of this post card there was and is written:
"You are one of the four buses. Where did you get the
name Hill. Drop dead or go to Russia."

4. On or about July 11, 1949, I received a card
addressed to "Louis Hill, 40 Metropolitan Oval, Bronx."
The reverse side read and reads: "To Louis Hill - A
specter for the Reds. Shame on you. Selling out your
American friends. When do you go to Russia? Soon, I
hope. American citizen."

5. I also attribute to my actions as a trial juror in the above cause a telephone call made to my home by an anonymous person. This call was made following the disagreement.

Louis Hill

Sworn to before me this
30th day of September, 1949.

Grace Strom

GRACE STROM
Notary Public in the State of New York
Residing in Kings County
Kings Co. Clk's No. 374 Reg. No. 212-S-0
N.Y. Co. Clk's No. 810 Reg. No. 141-S-0
Commission Expires March 30, 1950

1872
Louis Hill
41 Metropolitan St
Boston



To Louis Hill - Ambassador to Russia
Shame on you
Selling out your
Andrian friends. When
do you go to Russia?
Soon, I hope.
American citizen

1872
117 - 117 - 117



You are well to know
I am well to know
The same H.C.
Drop that right to
you

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA, :
 Plaintiff, :
 -against- :
ALGER HISS, :
 Defendant. :
-----X

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

LOUISE A. TORIAN, being duly sworn, deposes and says:

1. I reside at 666 West 188th Street, New York City.
2. I served as one of the trial jurors in the case entitled United States v. Alger Hiss.
3. During the third or fourth week of the trial of Alger Hiss an attempt was made to enter my apartment. A person or persons unknown attempted to force my front door. I reported this incident to the 34th Police District and a detective was sent to investigate.
4. Following the discharge of the trial jury because of the inability of the jurors to reach any agreement, I received, on or about July 10, 1949, the postcard annexed hereto as Exhibit "A". This postcard was addressed

to me as "Comrade Louise A. Torian" and on the reverse side there was written: "And you wonder why decent Men and Women can't get in to this country. Drop dead and go over with your 'Commie' Friends."

5. On or about July 11, 1949, I received the card annexed hereto as Exhibit "B". On the reverse side of this card was written the following: "To Louise A. Torian - a sucker for the Reds. So you sold out to the commies. When do you go to Russia, The sooner, the better for us. American citizen."

6. On or about July 12, 1949, I received in an envelope addressed to me, which had been mailed from the Bronx, the slip of paper annexed hereto as Exhibit "C". This paper contained these words: "You red - ---- we will trap you soon and that will be your end. so you are a traitor. CARLOS K."

7. On or about July 11, 1949, an unknown man called me at approximately 5:30 P.M. He said in a foreign accent "We will get you soon and that will be the end of you." I inquired as to his identity but upon my inquiry he hung up.

8. On or about July 13, 1949, an unknown person called me at 2:30 A.M. When I lifted the telephone receiver this person laughed and then produced a ringing noise which deafened me. A few days later my telephone

rang again late at night. I did not answer it but the next day called my attorney to ask his advice as to how I could protect myself against such calls.

S/LOUISE A. TORIAN

Sworn to before me this
4th day of October, 1949.

ALFRED J. GNOGLMO
Notary Public, State of New York
No. 241439005
Qualified in Kings County
and Kings, New York, Bronx,
Queens, Nassau, Westchester Co. Ch's Off
and Kings, New York, Bronx & Queens, Co
Reg. Off

Term Expires March 30, 1950

ALFRED J. GNOGLMO
Notary Public, State of New York
No. 241439005
Qualified in Kings County
and Kings, New York, Bronx,
Queens, Nassau, Westchester Co. Ch's Off
and Kings, New York, Bronx & Queens, Co
Reg. Off
Term Expires March 30, 1950

You rat- ---- We will trap you soon and that will be you end.

so you are a t.aitor.

CARLOS R.

Exhibit C

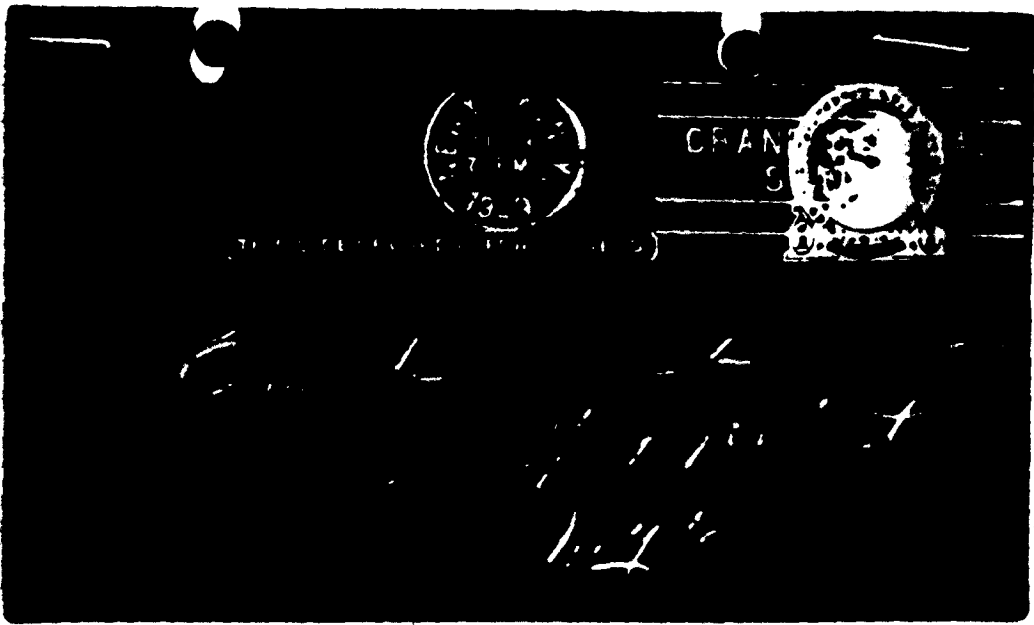


Exhibit A

... why don't
you and I ... cannot get
to the country.
I hope to go on with you
...
Cousin ...

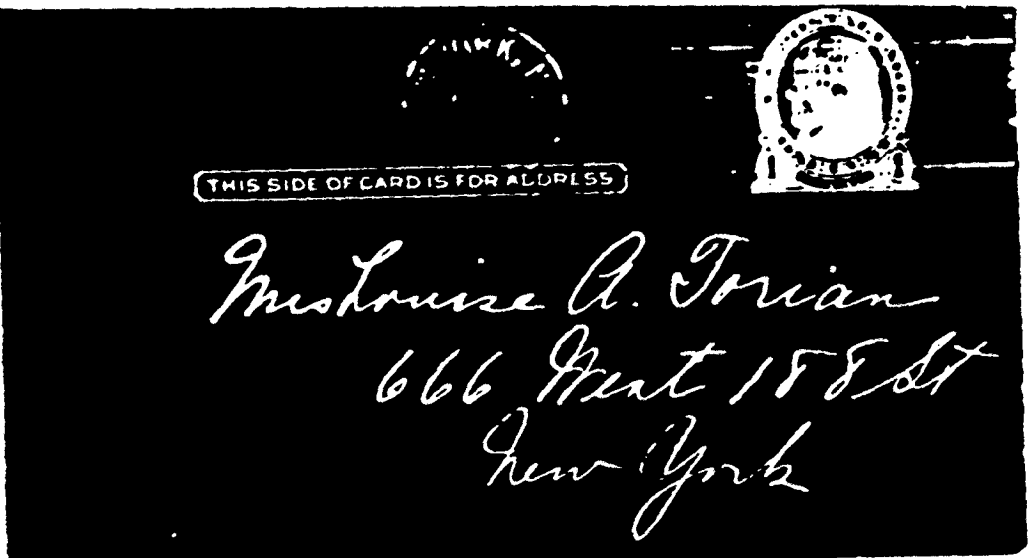


Exhibit B

To Louise A. Torian ^{a number for the Red}
So you sold out to the
committee. When do you
go to Russia. The sooner
the better for us.
American citizen.

0/28-402

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

ALGER HISS,

Defendant

NOTICE OF MOTION
AND AFFIDAVITS

DEBEVOISE, PLIMPTON & MOLEAN

Attorneys for Defendant,

29 Exchange Place,

Passaic or Manhattan,
City of New York,
New York.

COPIES RECEIVED

1949 Oct 5 5:55 PM
John G. H. Mc...
B. ATTORNEY

AFFIDAVIT OF ROBERT W. MITCHELL

COMES Robert W. Mitchell of the City of Rutland in the County of Rutland and State of Vermont and upon oath does depose and say:

1. That I am the Editor of the Rutland Daily Herald, a daily newspaper published in the City of Rutland in the County of Rutland and state of Vermont and have been such Editor since 1941.
2. That I reside in the City of Rutland and have resided in said City of Rutland since 1941.
3. That said Rutland Daily Herald is the only daily newspaper published in the County of Rutland; that no daily paper is published in Orange, Windsor or Addison Counties; that said Rutland Daily Herald has a wide circulation in the Counties of Addison, Windsor and Bennington and a reasonable circulation in Orange and Windham Counties. Its daily circulation is approximately 18,000 copies.
4. That said Rutland Daily Herald has the largest circulation in the Counties of Rutland and Windsor of any daily newspaper published in or outside of the State of Vermont; its circulation in Addison County is less than that of the Burlington Free Press.
5. That I have no definite recollection of the coverage of the trial of Alger Hiss during the period May 31-July 31, 1949 by any newspaper published in the State of Vermont other than the Rutland Daily Herald. The Rutland Daily Herald carried the stories distributed by the Associated Press and had practically no editorial comment on the case. The syndicated columnists published in the Rutland Daily Herald during the period May 31, 1949 - July 31, 1949 were Marquis Childs, Robert C. Ruark and Thomas L. Stokes, all of whom were exceedingly mild and impartial in their treatment of the trial. Westbrook Pegler and George Sokolsky are not carried

by any Vermont newspaper, and were not carried during the period, May 31 - July 31, 1949.

6. That I am reasonably familiar with the state of public opinion in Vermont in general and in Rutland County in particular; that there is no pronounced public sentiment either for or against Alger Miss or for or against the prosecution.

7. That in my opinion Alger Miss would have a better chance to have a fair trial in Vermont than in any other place in the east.

And further Deponent sayeth noth.

Dated at the City of Rutland in the County of Rutland and State of Vermont the 19th day of September, A. D. 1949.

Robert W. Mitchell

STATE OF VERMONT }
RUTLAND COUNTY, ss }

Be it remembered that at the City of Rutland on the 19th day of September, A. D. 1949 personally appeared Robert W. Mitchell and made oath to the foregoing Affidavit by him subscribed.

Before me

R. Charles Smith
Notary Public.

Chambers Says Reds Made Hiss Join State Dept.

Pictures on Page 3.

By VICTOR LASKY.

World-Telegram Staff Writer.

Alger Hiss was ordered to enter the State Department in 1936 by the Communist underground, despite his bitter objections, according to secret testimony presented by Whittaker Chambers before a subcommittee of the House Un-American Activities Committee.

The World-Telegram learned this today as the perjury trial of the former topflight State Department official was in recess until Monday. Mr. Chambers is scheduled to return to the stand then for further cross-examination.

Hearing at Farm.

Mr. Chambers told of Mr. Hiss' alleged unwillingness to take a State Department job at an emergency session in his farm home in Westminster, Md., last Dec. 28 shortly after the "pumpkin papers" were uncovered.

Mr. Chambers also told of the existence of another underground group operating from a Central Park W. home in the city under the direction of J. Peters, alias Alexander Stevens, who recently left the country as a voluntary deportee.

Mr. Chambers said under oath that the New York ring had as members Frederick Vanderbilt Field, a millionaire Communist, and a prominent New York newspaperman.

J. Peters also directed operations of the Washington Communist underground in which Mr. Chambers was known only by the pseudonym "Carl."

Tells of Invitation.

When Mr. Hiss told "Carl" according to the sworn testimony

that he had been invited to join the State Department by Francis B. Sayre, the Assistant Secretary of State, the information was taken to Mr. Peters.

Mr. Sayre, then in charge of the reciprocal trades division, had asked Mr. Hiss, a former student at Harvard Law School, to assist him in preparing constitutional arguments on trade agreement acts.

Mr. Hiss, according to Mr. Chambers, was opposed to leaving the Department of Justice. Mr. Hiss said he felt an obligation to the Solicitor General, Stanley Reed, now a United States Supreme Court Justice.

Ordered to Take Job.

But Mr. Peters told Mr. Chambers, he testified, that the Communist underground had no interest in the Solicitor General's office and would prefer having an operative in the State Department.

Mr. Chambers testified he "ordered" Mr. Hiss to take the State Department job. As a "disciplined Communist," Mr. Hiss did so, Mr. Chambers said.

It was while Mr. Hiss was employed in Mr. Sayre's office that State Department documents were transmitted in large quantities to Mr. Chambers. Mr. Chambers has charged that Mr. Hiss did the transmitting.

Ex. 1

New York World Telegram, Friday, June 24, 1949

NEW YORK WORLD-TELEGRAM, FRIDAY, JUNE 24, 1949.

Chambers Denies Calling Sayre Red; Declares Cowley Has Twisted Facts

By VICTOR LASKY,

World-Telegram Staff Writer.

Whittaker Chambers today bluntly denied he had ever named Francis B. Sayre, former Assistant Secretary of State, as the head of a Communist underground apparatus in the State Department.

"The whole thing is patently absurd," Mr. Chambers told the World-Telegram by telephone from his farm near Westminster, Md. "I never said any such thing."

Cowley Allegation

The allegation Mr. Chambers had named Mr. Sayre as a Communist came from Malcolm Cowley, literary critic, in testimony at the Alger Hiss perjury trial yesterday.

Strong hints were made by the government to keep Mr. Cowley from testifying on the grounds

that Mr. Chambers was not on trial, but that Mr. Hiss was.

Under cross-examination Mr. Cowley admitted having been active in Communist causes for many years, having voted for Communist candidates in 1932, 1934 and 1936 and having registered as a Communist. He said the Soviet-Nazi pact sickened him.

He said he had first spoken of his conversation with Mr. Chambers with A. J. Leblin, the New Yorker critic of the press, who was preparing an article about Mr. Chambers. Mr. Leblin, he testified, had called the incident to the attention of Mr. Hiss' attorneys.

Met for Cocktails

Mr. Chambers does recall meeting Mr. Cowley at the Hotel New Weston for cocktails late in 1940.

"When I arrived," Mr. Chambers said, "it appeared to me Mr. Cowley had had quite a few. Robert Cantwell of Time was with me. And as I recall it Mr. Cowley told quite a number of unpleasant and malicious stories concerning people on the Left Bank in Paris.

"There is absolutely no question in my mind that I did not identify Mr. Sayre as a Communist. I might quite possibly have told Cowley that a member of Mrs. Sayre's department was a member of the Communist underground."

Mr. Cowley had testified Mr. Chambers had arranged to meet him through Mr. Chambers' secretary.

"I never had a secretary during that period," Mr. Chambers said.

Mr. Cowley also testified Mr. Chambers had wanted to talk with him about an article dealing with

writers who had quit Communist ranks in disgust over the Soviet-Nazi pact.

"I not only never contemplated such an article," Mr. Chambers said, "but I never wrote such an article. To the best of my recollection, Cowley had asked to meet me to ask about doing some part-time literary criticism for Time. Frankly, I never had trusted him, and I vetoed the idea at the time."

Busy on Farm

Mr. Chambers appeared to be cheerful as he spoke. He asked about the progress of the Hiss trial, stating most of his information came from radio accounts. He said most of his time was taken up with farm chores.

"As a matter of fact, I've got a couple of cows waiting to be milked at the moment," he said, chuckling.

New York Sun, June 24, 1949

Chambers Denies Sayre Story

Disputes Cowley's Testimony on Son-in-law of Woodrow Wilson.

Special to The New York Sun.
The New York Sun Bureau,
Washington, June 24.

Whittaker Chambers denied categorically today that he ever had told Malcolm Cowley or any one else that Francis Bowes Sayre was a Communist, or the head of a Communist apparatus in the State Department.

Reached at his Westminster, Md., farm, Chambers told The New York Sun that there never had been the slightest question in his mind that Sayre entertained Communist affiliations.

Emphatic Denial

"Mr. Sayre, to my knowledge," said Chambers emphatically, "never had any connection of any kind with Communist activity, except inadvertently, in the case of Alger Hiss."

Appearing as a surprise witness for the defense at the Hiss trial yesterday, Cowley described a meeting which he had with Chambers at the New Weston Hotel in New York city on December 19, 1940, at which Chambers identified Sayre as "the leader of the Communist underground in the State Department."

According to Cowley, Chambers had explained that he was writing an article on writers who had "jumped off the Moscow Express." In the course of this talk, Cowley testified, Chambers told him that Nathan Witt was the first Communist ever to be discharged from the governmental service for Communist activity and that another man was Sayre.

Cowley's Testimony.

"When I said: 'Not Woodrow Wilson's son-in-law; not the High Commissioner to the Philippines,' Mr. Chambers said he was the head of a Communist apparatus in the State Department," Cowley testified.

"I say categorically that I never told Mr. Cowley any such thing," Chambers told The Sun today. Declaring that he had not seen Cowley more than four or five times in his life, and that he never trusted him, he recalled the meeting at the New Weston, though he had no recollection of the date.

"We met either for lunch or for cocktails," he said, "and I rather think it was the latter. The meeting, I recall, was arranged by Robert Cantwell, who was present with us."

Witness for Hiss



See Staff Photo.
Malcolm Cowley.

No Such Article.

Asked if he was—as Cowley testified—writing an article about writers who were jumping off the Moscow express, he insisted that he was not.

"I was too busy with other things at the time," he said; "and, as I recall it, it was Cowley who was doing the piece, and wanted some information from me. I never trusted him, or his politics, and I never knew whether he was a Communist or not, though he belonged to front groups."

"I do remember that he wanted to get full time or part time work on Time Magazine, and that I was against it; although I think that occurred some time later."

Asked if he had said anything about Sayre which might have been the basis of Cowley's testimony, Chambers replied: "The only thing I might possibly have said to him was that there was a member of the Communist underground in Sayre's department. I certainly did not even suggest that Sayre, himself, had any party connections."

New York Post Home News, Friday, June 17, 1949

COMPLETE NEWS—MAGAZINE SECTION—COMIC FEATURES

New York Post HOME NEWS

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76 PAGES

WADLEIGH TELLS WHY HE SPIED

EXCLUSIVE

Story on Page 3

Ex 4

EXCLUSIVE INTERVIEW:

Wadleigh: Fear of Nazis Made Me Aid Reds

By MALCOLM LOGAN

Henry Julian Wadleigh, the former State Dept. employe who admitted on the witness stand yesterday that he provided a Communist espionage apparatus in Washington with secret State Dept. documents from 1936 to 1938, described in The Post Home News today in the first interview he has given to any newspaper the motives that impelled him into that calamitous adventure.

When he testified for the government at the Alger Hiss perjury trial, Wadleigh became the first of the five former government officials named by Whit-

taker Chambers, the confessed espionage ring courier, to admit his guilt.

During his testimony, Asst. U. S. Atty. Thomas F. Murphy tried to give the jury a glimpse into the way Wadleigh's mind worked, back in 1936, by asking him whether he did not have strong feelings about the rising threat of Nazism, but Judge Kaufman sustained an objection by Lloyd Paul Stryker, Hiss' attorney.

Wadleigh was born in Greenfield, Mass., in 1904. His father, Episcopalian clergyman, went abroad when he was three and Wadleigh lived in Europe until

he was 25. He received an MA degree from Oxford and a bachelor's degree in economics at London University.

In his interview, he explained that just before he returned to this country, he went to Germany and saw the beginnings of Nazism; and he answered the question that was ruled out of the Hiss trial.

"My feelings about Nazi Germany were extremely strong," he said in his voice, in which there is still a strong Oxonian accent. "I was at the University of Kiel for six months, just before I came back here. I met

some Nazis. They were a vicious bunch."

Before his German experience, he testified yesterday, he became greatly interested in Fabian Socialism—the same interest which in Chambers was the first step toward development into a Communist. He was a convert to this concept of gradual evolution into Socialism when he went to Chicago in 1929 to study for a year at the University of Chicago.

In 1930 Wadleigh entered the employ of the Federal Farm Board; two years later he went to the Agriculture Dept., and in 1935 he joined the Trade Agree-

ments Section of the State Dept. During this period, he said, he watched with mounting apprehension the emergence of Fascism in Europe and Japanese militarism in the Far East. He saw the young German democracy "wiped out overnight" by Hitler. He saw Japan gobble up Manchuria while the democracies stood by. He saw the League of Nations paralyzed when Mussolini invaded Ethiopia, and watched the non-intervention policy in Spain permit Hitler and Franco to win the revolution for France.

"Then there were more and
Continued on Page 37

Ex 4a

W. J. a

Why I Spied Wadleigh

Continued from Page 3

indications that Hitler sympathizers in high positions were making the policies of their governments, and there seemed no effective effort on the part of our own government to anything to stiffen the resistance of the democracies against Mussolini and the Japanese said.

"This country the isolationists were playing into the hands of the Nazis."

"I believed the Communists were practically the only people who were putting up a determined resistance."

"Wadleigh said he finally decided to offer his services to the

American Communists near the end of 1935, when he was still in the Agriculture Dept. It was then that he met David Carpenter, who, he testified, became his principal contact in the Communist underground.

He was not asked to do anything until he entered the State Dept. Then his voluntary offer was taken up, and he was asked to smuggle out documents which were to be photographed for transmission to Russia.

Wadleigh admitted that it was a shock to him to be asked to do this work, but he said he felt that the world situation was so perilous that he could not refuse, even though it meant the sacrifice of his integrity.

"I don't remember that there was any conflict of loyalties in my mind," he said. "The whole business of sneaking around doing things deceitfully was distasteful to me, but my feeling at the time was that I was not going to be the kind of weakling who offers to help and pulls out with cold feet when he's given a dangerous assignment."

Wadleigh said at the trial that his method of operation was very simple. He would put in his briefcase at the end of the working day any documents which had come to him that he thought would be of interest to his secret allies. Either Carpenter or Chambers would meet him at a pre-arranged street corner and take the briefcase. Next morning his contact would meet him and return the briefcase with the documents in it.

In March, 1939, Wadleigh was sent to Turkey to help negotiate a trade agreement. While he was away, in April, Chambers quit the Communist Party and told Wadleigh, when the latter returned, that he was going to become a "bourgeois."

"Obviously it was not practicable from the standpoint of the apparatus to get any further documents from me, at least for a considerable period of time, after Chambers pulled out," he said.

This temporary paralysis of the apparatus lasted until Stalin and

Hitler signed their nonaggression pact in the summer of 1939. "As a result of that, I had such serious misgivings that I was glad to have had the opportunity to pull out so easily, and I never resumed my contact with the group," Wadleigh said.

He added that he could understand that the Soviet government had signed the pact in the interests of its own survival, but nevertheless in doing so the Communists had abdicated leadership of the anti-Fascist forces.

Wadleigh said he was never a party member.

When he was asked why he refused to testify on grounds of possible self-incrimination before the House Un-American Activi-

ties Committee, and then talked freely before the Grand Jury and in court, he did not answer directly, but talked about civil liberties.

He said that the only places where Communism had been successful were countries where civil liberties were utterly absent and that those who were trying to fight Communism with repressive tactics were "tending to create the very conditions under which Communism is apt to thrive."

"I don't want to put myself in the position of justifying civil liberties merely as a protection against Communism," he added. "I value them for their own sake primarily, but the world's experience has proved that they are

a very effective protection against Communism."

He was very concerned lest anyone believe he has gone from extreme left to extreme right.

"For Pete's sake," he said, with a wide grin, "don't think I've gone to the opposite extreme. One extreme is enough for a lifetime. I'm a liberal. I'm not a Red-baiter."

Wadleigh, whose life has been completely disrupted by the events that began when Chambers first testified before the House committee, said he hoped to become a freelance writer.

"For more than 10 years, I've lived with a skeleton in my closet," he added. "Thank God I'm rid of it now."

New York
World-Telegram. Friday, July 1, 1949

Hiss Judge Bars Eisler's Ex-Wife

Federal Judge Samuel H. Kaufman, after a long discussion in chambers with attorneys in the Alger Hiss perjury trial, ruled today that Mrs. Hede Massing, former wife of Gerhart Eisler, cannot testify as a government rebuttal witness.

Judge Kaufman gave no reason for his ruling, simply telling the jury "her testimony is not admissible." But it was learned the defense had opposed her taking the stand on the ground she is only a collateral witness whose testimony would have no direct connection with Mr. Hiss.

Confronted Hiss.

Mr. Hiss, under cross-examination, previously had denied ever meeting Mrs. Massing at the Washington home of Noel Field, a former State Department official.

Mrs. Massing, also known as Hede Gumpertz, was taken into a room at the U.S. Court House here last December to confront Mr. Hiss. He denied knowing her.

The former wife of the Communist agent was prepared to testify that she had been an agent of the Soviet government in the 1930s and was assigned to Washington. She has alleged she met Mr. Hiss during that time.

Dulles' Testimony.

Assistant U.S. Attorney Thomas F. Murphy reportedly fought strongly for the right to present the witness, but was just as strongly opposed by Lloyd Paul Stryker, Mr. Hiss' chief counsel.

The government yesterday scored a point in its attack on Mr. Hiss' credibility when John Foster Dulles, trustee of the Carnegie Endowment for International Peace, testified he had asked Mr. Hiss to resign from the \$20,000-a-

year presidency to relieve the government of embarrassment.

Mr. Hiss, under cross-examination, had denied Mr. Dulles asked him to resign last August after Whittaker Chambers made his public accusations against the former State Department official.

That Mr. Dulles had urged Mr. Hiss to resign was reported exclusively by the World-Telegram on Tuesday.

Three rebuttal witnesses were called by the government in today's abort session. One of them, Paul A. Solandt, now an employee in the Library of Congress in Washington, testified he had stayed in an apartment house in Chestertown, Md., during the summer of 1937. He said he never saw either Mr. or Mrs. Hiss there.

The Hisses had testified they stayed in the house during a part of the summer and were there at the time Mr. Chambers asserted they accompanied him on a trip to Peterboro, N. H.

On cross-examination by Mr. Stryker, Mr. Solandt admitted he was not at the apartment house every day that summer.

Mr. Murphy said he would have a few more witnesses on Tuesday, and it was expected attorneys would deliver their summations early in the week.

E.S.

New York Journal American, Tuesday, June 28, 1949

Westbrook Pegler's Story of Alger Hiss Trial

By WESTBROOK PEGLER

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The great game of name-dropping which had been played by Alger Hiss and his learned counsel, Lloyd Paul Stryker, busted apart at the seams when Tommy Murphy, of the Government side, got his licks in yesterday.

Mr. Murphy, standing six-foot-four and twitching the sprigs of an old-fashioned walrus mustache, took up the questioning where he had been forced to leave off when Justice Felix Frankfurter was on

the stand last week as a character witness for his protegee.

Mr. Hiss is on trial charged with perjury in statements to the Federal Grand Jury in an inquiry growing out of the Whittaker Chambers disclosures.

Chambers said Hiss turned over secret documents and digests of secret information for transmission to the Soviet government.

Last week, Frankfurter and Stanley Reed, another Justice of the Supreme Court, gratuitously came into this trial to check their weight about in

the interests of a man accused of betraying the Government which they are sworn to uphold.

Other Federal judges also horned in on behalf of the defense, but these two counted most and Frankfurter was easily half-a-dozen of Reed, who never has amounted to much.

Frankfurter swaggered in the special way he has and he seemed to assume that when he appeared as a character witness for Hiss, his own character was taken for granted. Mr. Murphy thought otherwise and showed him marked irreverence.

In particular, he panned Frankfurter's ears back in one exchange that would have delighted many a trembling barrister, particularly young springers before the Supreme Court who have to submit to heckling and flat-picking, feeling that they can talk back only at the peril of their clients.

For all his inexplicable reputation as a savant, Frankfurter is the gabbiest, foggiest bore you would find in a guardhouse full of AWOLS. He takes off into space and whips around and can't get his flaps

Continued on Page 3, Column 1.

As Pegler Sees It

Hiss' High Court Backers Fail to Awe Prosecutor

By WESTROOK PEGLER

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Continued from First Page

down until he finally finds himself in the trees, but nevertheless some mysterious force of propaganda has put him over on the American public as an intellect of enormous brain-power.

As Ben Stolberg once wrote of another pest of the same type, Frankfurter has a consummate knack of backing modestly into the limelight always with an assumption that if he were to say it was just half-past, that ought to be inscribed on rock as wisdom for the ages.



WESTROOK PEGLER

The head of the cult of the Harvard happy hot dogs got too close to the buzz-saw when this big, lumbering Murphy asked him if he had ever discussed with Judge Jerome Frank, another of the same ideological clique, Hiss's reputation for loyalty, integrity and veracity.

"Do you remember talking to Judge Frank about it?"

"No," Frankfurter said. "I remember his talking to me."

"Then," Murphy said, "I assume that you talked to him when he talked to you."

"Well," Felix said, "let us not fence. All I meant to say was . . ."

"You were the one who started fencing, weren't you Judge? I asked you whether you talked to Judge Frank and you said Judge Frank talked to you. Am I accurate?" Murphy insisted.

"I am trying to answer as carefully as I can with due regard for your responsibility and mine and the jury's and the responsibility of this case."

But, of course, he wasn't. He was showing off in the manner that so often in Washington has had Bill Douglas down the bench cranking up with a spilloon to crown him. And Tommy Murphy apped and knocked him through the skylight. This was less majesty. Tommy might get hung for that.

I think that for documentation I ought to give you one prime example of this fantastic old gas-bag's wisdom straight from the record so that you will know what I mean when I speak of his double-talk. This is it:

"I have a vague memory that sometime while I was away in '33 and '34, when I was one year abroad visiting a professor at Oxford, and while abroad, unless I am wrong there, but about that time, during that period, there were some differences of opinion among lawyers and non-lawyers in the Department of Agriculture, and since several of them were my friends, including Judge Frank, I heard about that."

That is by no means the worst and I assure you it is not a freak. That is the way he speaks.

THEN MURPHY ASKED HIM to name some other bright study boys whom he had recommended for jobs in the New Deal back when the Harvard Communists were just beginning to take over Agriculture, the Labor Relations Board, the Department of Justice and the State Department.

Reds from Harvard Law were planted all over, but the stock phrase was and still is that "Frankfurter had no more to do with my appointment than you did."

"Did you recommend Lee Pressman?" Murphy asked Felix. That was a hot one because Pressman later became chief counsel of the C. I. O. and last Summer refused to answer on oath whether or not he ever had been a member of the Communist Party.

Mr. Stryker for the defense hopped up and said it was immaterial whether Felix had recommended Pressman. After all, it was Hiss who was on trial. Yes, but Felix Frankfurter's reputation was on trial, too.

Felix was tossing the name of the late Justice Oliver Wendell Holmes all over the place and modestly boasting about his own intimacy with the cynical and senile brutalitarian to whom, in his doddering days, Frankfurter recommended law secretaries who also doubled as male nurses. These included Alger Hiss.

From the way he used the name of Holmes and the way Hiss himself intoned it and spoke of relics from the old boy, you would have thought they were talking about personal relations with God Almighty. To many of this cult, Holmes and the late Roosevelt do suffice for gods, at that.

Frankfurter said that Holmes, the solicitor general and others had turned to him "while I was at Harvard Law to recommend men of competence and character . . ."

Murphy wanted to ask Felix whether Pressman met his standards of character when Stryker protested and Judge Samuel H. Kaufman, a New Dealer and an organization Democrat, sustained him. Had he been allowed to proceed, Murphy could have mentioned a lot of Communists who got into the government and asked whether they represented Frankfurter's idea of character.

But that didn't stop Murphy dead. It just detoured him until yesterday when he got Hiss on cross-examination. Then Murphy sort of sidled up to him.

They were talking about the time when Jimmy Byrnes, who also became Justice of the Supreme Court but let Roosevelt seduce him off on other jobs, warned Hiss that people were saying he was a Communist.

"Did Byrnes say anything about your association with Pressman?" And Hiss said yes.

"He was a very close personal friend," Hiss said, "and I believe he was in the same law office with Jerome Frank, now Judge Frank."

IF FRANKFURTER HAD BEEN forced to enlarge on the list of young men of "character" whom he recommended for jobs in the New Deal, he might have been in need of some character witnesses himself. A great secret of the New Deal was at bay there, but Judge Kaufman saved it by his ruling that it was irrelevant to go further.

Later in the day, Hiss was induced to recall that he was a member of the International Juridical Association and that seemed to be a strike for Mr. Murphy. This organization is mentioned 26 times in the index of the Dies Committee. Pressman and Carol King, a lawyer specializing in the cases of alleged Communists, are prominent in its affairs.

"Among them (the members of the Association's National Committee) are a substantial nucleus of avowed or probable members of the Communist Party" the Congressional report says.

David K. Miles, formerly Neyhaus, Frankfurter's old crony and for years under Roosevelt and Truman a "selfless secretary" in the White House, is listed as a member of the National Committee of this association.

As Pegler Sees It

Justice Felix Frankfurter And His Testimony for Hiss

By WESTBROOK PEGLER

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I PROMISED TO ANALYZE FELIX FRANKFURTER'S testimony as a voluntary "character" witness in the Alger Hiss trial. The immediate question concerns perjury, but the basic question is whether Hiss was loyal or a traitor to the United States.

Felix identified himself as a Justice of the Supreme Court and said he had been a professor at Harvard Law for 25 years. He is windy, evasive and elusive, and that cannot be attributed to inexperience, ignorance or ineptitude, because he is a double-dome and a shrewd fellow as his machinations show.



WESTBROOK PEGLER

Lloyd Paul Stryker, Hiss' lawyer, asked Felix whether the young students of Harvard Law who made the editorial board of the Harvard Law Review were chosen "by reason of character."

Now listen to this gibberish from the Great Brain:

"His Honor will keep me in bounds, if I stray outside of them," Felix said, giving her the gun and leaping off into space, "but inasmuch as men are chosen by the students, which students

make the choice by their own minds and who I should think have a very direct and rather fair determination, as we all know, as their qualifications are passed upon by their fellow students.

So help me, that is official verbatim text.

SO WE HAVE NO CERTIFICATE OF CHARACTER YET from Felix to Alger.

A few minutes later, Felix even squirmed away from the direct question whether the young men, including Hiss, whom he recommended to Justice Oliver Wendell Holmes for the position of law secretary, were trustworthy and confidential.

Quibbling, he said:

"But basic to all Justices is, of course, the deeply confidential relation that a law clerk bears to a Justice, and to be of any use at all he must be in the complete confidence of the Justice, which means he must know secrets of importance as enter into the affairs of Government."

In frank language, the nominee must enjoy the Judge's confidence and know vital state secrets, but he may still be a double-crossing sneak and a traitor. It is only necessary that he be unscrupulous and full of guile and so deceive the person who gives him complete confidence. That is the basic allegation by Whittaker Chambers against Hiss.

I will not deny you at this point another example of this classical bore's double-talk, again verbatim from the official record:

"Those men who were chosen for editorship on the Law Review, I had rather frequent and gradually more or less close contact with, and who had close contact with members of the faculty, because, while it is true, as I have indicated earlier, in answer to your question, the Law Review is run by or in ultimate control of students."

A GAIN STRYKER BECAME SLAUNCHWISE and have an opportunity to appraise Hiss' work as a character, integrity and reliability? Note that Stryker doesn't ask Felix whether Hiss was a man of good character.

In answer to that sidelong approach, a reference to character but not a forthright question, Frankfurter began by paying himself a fine tribute. Then he said he would watch the individuals under consideration to see "what manner of men they were."

But his reply was a hypothetical blob answering nothing and absolutely noncommittal as to the character of Alger Hiss. Abbreviated or wrung out, it is: If he selected John Smith he would write Holmes that he had kept an eye on the man's character.

Elaborating, he said only that the qualities necessary in the nominee were: "Personality, the characteristics, the character and all the things that go to make up the kind of man that anyone in my position would think had the indispensable characteristics."

Specifically he does not mention honor, honesty, decency, loyalty, morals or even good character as "indispensable qualities." There is mention of "character," but not "good character."

When, finally and with a flourish, Stryker asked the crafty dodger whether Hiss' reputation for "loyalty to his Government, integrity and veracity" was good or bad, Frankfurter flinched.

"I never heard it called into question," he said, which was no answer, as he very well knew. The best he would say was that "from the speech of the people" he would say that Hiss' reputation was excellent in these respects.

NOW TOM MURPHY GETS HIM ON CROSS-EXAMINATION and he ducks the first ball thrown. Didn't Felix hear in 1944 that Hiss' reputation wasn't too good?

Did he give an honest answer? He did not. He pretended to regard the date, note the issue, as the subject of the question.

"Well," Felix said, "I can't answer 'yes' to that date."

Did Felix ever discuss the guy with Judge Jerome Frank? Again Felix takes evasive action.

"I think I hesitate about that," he said, "because certainly not in 1944."

The next question is the one where Murphy slapped his ears back when Felix said he didn't talk to Judge Jerome Frank; Frank talked to him. Murphy nailed him for quibbling and Frankfurter tried to make it appear that Murphy was "fencing." Murphy said Felix started the fencing and Frankfurter then plainly said he was trying to answer carefully, when most of his replies throughout the session weren't answers at all.

For the first time on record, Murphy then got Frankfurter to admit that he had spotted people in Government jobs. His vanity did him dirt there. He couldn't resist the temptation to boast. He said Frank, as Solicitor General of the Department of Agriculture, turned to him, "as members of the Bar throughout the country in Government and out of Government" did, to recommend men of competence and character.

The question was, however, whether he "had any idea how Hiss" first got into the Government in 1933 or 1934. Felix gazed away for almost a page of the record, but without answering straight. Forthrightness seems to violate his code.

NOW FRANKFURTER IS SUPPOSED TO KNOW that when an objection is raised in court, the witness is supposed to shut up and not sneak in a reply which will leave an impression on the jury, even though the Judge may sustain the objection and strike out the answer. But this fellow is a wily one. He knows all the dodges.

"Did you recommend Lee Pressman?" Murphy asked.

Pressman is another happy hot dog, a great friend of Hiss and Felix, who got in his troublesome necks over a long period and last Summer refused to say whether or not he was a Communist.

Stryker objected. The court sustained him. But Frankfurter wanted to be sure to get in a straight answer for once when the implication might be left that he did recommend a wronger.

"I should say—" Felix began.

"I sustained the objection, Mr. Justice," said Judge Kaufman from the bench.

"I should say it is highly unlikely," Felix persisted nevertheless, thus taking an unfair advantage to serve his own interest.

Westbrook Pegler's special feature is one of many reading leads in Pictorial Review, with Sunday's Journal American.

Judicial Propriety

ALGER HISS was a member of that coterie of eight young men out of Harvard who were in good positions by Felix Frankfurter when as one of his duties.

Much has been made of Frankfurter's activities in respect, but the facts are that every university and every technical school has a placement officer; that Frankfurter was a successful placement officer and got jobs for Harvard men.

Time goes by and Felix Frankfurter is an Associate Justice of the United States Supreme Court—the highest court in the land, a body that throughout the course of American history has been treated with respect bordering on the sacred.

Alger Hiss also rose to high position and became one of the big men of the State Department. Now Hiss is under indictment for a shameful crime. An indictment is not a conviction and no court is entitled to prejudge the Hiss case.

At of High Office

The case's peculiarity is: It will be impossible to know absolutely who is the liar, the greater liar, Alger Hiss or Whittaker Chambers. It is a trial not of fact but of lying. Actually, it is a trial on the subject of lying under oath.

The jury will have to decide: Did Alger Hiss lie under oath? Can Alger Hiss be believed under oath? Does he have commitments, of a political or personal nature, which cause him to believe that he is justified if it serves a good purpose? Can Whittaker Chambers, his accuser, be believed under oath? Is it possible to believe that a man who has so denounced himself, has, by confession of guilt, become truthful?

Into this extraordinarily complex problem, two associate justices of the United States Supreme Court, Frankfurter and Reed, interjected themselves, obviously to add the weight of their high office to sway the jury in Alger Hiss' favor.

By no possible means can Justices Frankfurter and Reed know whether Hiss is guilty or not, any more than you or I can know that.

This case is one in which the jury will have to decide on credibility—their willingness to believe what Hiss or Chambers says. The jury, sitting in court all these weeks, will have to accept one side or the other.

Therefore, the associate justices could not and did not say that they knew that Hiss did not do what Chambers said he did.

The Court's Position

The most they could say was that Hiss had been a good person and that they could not believe ill of him.

It would seem to the layman that Justices Reed and Frankfurter acted improperly.

In the first place, their high positions might sway the jury unduly; some jurors might even believe that such wonderful lawyers might know the truth—which actually, as this trial has gone, nobody can know for sure.

Secondly, this case might come before them on appeal and they have prejudged it. They will have to excuse themselves from sitting.

Thirdly, they have further dragged down the high position of the Supreme Court and made it a subject for controversy and suspicion.

Mr. Justice Jackson attacked his colleague, Mr. Justice Black, for doing precisely that. And the one English word that describes it accurately is "Cheap!"

Judicial Propriety

AN amazing and furthermore a disquieting performance was presented to the public when two members of the United States Supreme Court testified for Alger Hiss in his trial for perjury.

Both jurists—Justices Felix Frankfurter and Stanley F. Reed—appeared as character witnesses for Hiss.

Apart from the notorious fact that Hiss had been a protege of Justice Frankfurter's—one of General Hugh Johnson's "Happy Hot Dogs"—in the formative early New Deal days, the incident provokes serious questioning.

It is said to have been unprecedented in the annals of the Federal Judiciary.

If so, it is a precedent not to be followed lightly.

Hiss, of course, is entitled to summon character witnesses.

Nonetheless, the propriety of trial lawyers reaching into the highest tribunal for routine witnesses on any side of any controversy—or of Supreme Court Justices assuming such a role—is doubtful.

A jury of laymen must find the verdict in the Hiss case.

The appearance before them of Supreme Court Justices could hardly fail to affect them.

The Court in which the Justices

testified is a Court inferior to theirs and under their surveillance.

Its proceedings are subject to their review, and the rulings of its presiding judge are subject to their reversal.

District Judge Kaufman may well have felt embarrassed by the possibility of having their evidence questioned and being required to pass upon its admissibility.

If Hiss should be convicted, he may be expected to appeal: and in the normal course of things his appeal may reach the Supreme Court.

In that event, Justices Frankfurter and Reed—as witnesses in the lower court—could hardly sit in judgment upon their own credibility.

To escape the dilemma, they would have to disqualify themselves, leaving the seven other justices to consider Hiss' conduct—and inferentially their own.

One absentee from the shortened Court would reduce the effective session to six justices, and there might then be an even division, amounting to a decision by mere default against the defendant Hiss.

Since its "reconstruction" by the New Deal, the Supreme Court, as we all know, is not what it used to be.

Its dignity and prestige have not been improved by the action of Justices Frankfurter and Reed, even though they were technically within their civil rights.

First Big Trial For Hiss Judge

By LESLIE GOULD
Financial Editor

The trial of Alger Hiss, charged with perjury in the sensational case involving secret State Department data furnished Russian spies, is being held before Federal Judge Samuel H. Kaufman.

This is Judge Kaufman's first important case.

Kaufman, a New Deal trial lawyer practicing in New York, was supported for the life-time \$15,000 a year judgeship by Tammany Hall and Ed Flynn of the Bronx.

The Association of the Bar of N. Y. opposed Kaufman's appointment, and the Federal Bar Association of New York, New Jersey and Connecticut rescinded an earlier endorsement.

The Federal Association's action followed disclosures by this writer of Kaufman's connections with Serge Rubinstein, the notorious draft dodger.

President Truman ignored the

Continued on Page 2, Column 2.

Continued from First Page

Bar Associations' stand and named Kaufman last May to the Federal bench for the Southern district. The Senate failed to act on his nomination and when Congress adjourned, Kaufman received a recess appointment.

When the new Democratic Congress convened in January, after the Truman victory, Kaufman's nomination was re-submitted and he was confirmed at the end of January.



LESLIE GOULD

First Big Trial For Hiss Judge

REJECTED KAUFMAN.

As is the custom when a judgeship nomination is being considered, the Bar Association's opinion is asked. The Attorney General submitted two names—John A. Sonnett and Kaufman—to the New York Association. It did not recommend Kaufman.

The Association's report stated: "The need for the appointment of a man of outstanding ability was never greater than it is at the present time. The Attorney General subsequently requested reports concerning two candidates, one of whom we approved.

"In our reports on these candidates we stressed again the need for a man of honesty, strength of character, judicial capacity, recognized impartiality, and physical vigor."

HIRED POLITICAL LAWYERS.

Rubinstein, who cleaned up a Wall Street fortune while dodging the draft, made a practice of hiring lawyers with political connections or who knew their way around the bureau. There is a long list of such lawyers who served him at one time or another.

Kaufman, as his appointment proved, had important Washington connections and when he first served Rubinstein in 1943 he was an expert on immigration matters.

Rubinstein was arrested in 1942—this was sometime before he was sent to jail as a draft dodger. The arrest was on a deportation warrant. He won the case on an appeal from an adverse trial examiner's ruling at Ellis Island.

HANDLED CASE.

Kaufman and the now New Deal Senator from Connecticut—Brian McMahon—handled his case.

Immigration matters are under the Department of Justice. McMahon had served previously as head of the criminal division of the Justice Department. Kaufman had investigated and prosecuted widespread immigration and naturalization frauds in 1938 on the appointment of a New Deal Attorney General.

That was not the only instance where Kaufman served Rubinstein as counsel.

There is no law against a lawyer taking any client he may choose—a Rubinstein, an Al Capone, or a Judge Manton, but Kaufman did a rather unusual thing in 1943. This was when Rubinstein's draft matter was getting hot. The millionaire draft dodger won in all postponements and changes in his draft status during the war.

Kaufman talked on one occasion in 1943 to an official of the

draft board in New York City about Rubinstein's draft status. It was an after office hour call, made at the official's home.

The exact nature of this conversation has never been fully explained and it was in the same year Rubinstein was using Kaufman and McMahon on the immigration matter.

Kaufman is rated as one of the ablest and smartest trial lawyers in Manhattan and has been closely aligned for years with the New Deal and Tammany Hall, which has put over several judgeships.

His past connections and the circumstances of his appointment, plus his selection for this particular trial, heighten interest in his handling of the case. Hiss is one of the bright boys who was for years one of the inside groups behind the New Deal.

The New Deal political interest is so great in this case that there have been published stories of rumors that it would never even come to trial.

Who Helped OK Kaufman For Judge? Mr. Stryker!

By **LESLIE GOULD**
Financial Editor

When Samuel H. Kaufman, who is presiding over the Alger Hiss perjury trial, was under consideration for appointment as a Federal judge in the Southern New York District, the New York County Lawyers Association endorsed him for this lifetime appointment.

The Association of the Bar of New York opposed Judge Kaufman's appointment, and the Federal Bar Association of New York, New Jersey and Connecticut rescinded an earlier endorsement.

Mr. Kaufman's name had been submitted to the three lawyer organizations for their views as to his fitness for this high office.

STRYKER WAS CHAIRMAN.

The chairman of the judiciary committee of the New York County Lawyers Association and a member of the association's board of directors at the time of Mr. Kaufman's endorsement was Lloyd Paul Stryker, the chief defense counsel for Alger Hiss in this trial before Judge Kaufman.

The judiciary committee is

the body that first investigates the qualifications of a candidate for the bench and reports its findings to the directors.

The New York County Lawyers' board, after receiving the favorable report of its judiciary committee, unanimously approved the report and sent it on to Attorney General Clark.

This report also was given to the Senate committee considering President Truman's appointment of Mr. Kaufman.

OPPOSITE REPORTS.

This report was the opposite of the report of the Bar Association of New York and of the later revised action of the Federal Bar Association.

Mr. Stryker told this writer this morning before the opening of the trial that he was the chairman of the County Lawyers' judiciary committee, and that he was as well the acting chairman when Mr. Kaufman received his endorsement.

He also confirmed that he was a director of the association at the time the board approved the judiciary committee's findings.

The Senate committee at that time, which was in the Spring of 1948, failed to act on Mr. Kaufman's nomination and, after Congress went home, President Truman made a recess appointment.

This January, with the Democratic Party in control of the Senate, his nomination was re-submitted and he was confirmed for this \$12,000-a-year lifetime post.

Mr. Kaufman was sponsored by Tammany Hall and Ed Flynn, the Democratic boss of the Bronx.

IN CHARGE OF CALENDAR.

At the time of Mr. Kaufman's endorsement by the New York County Lawyers, I Howard Lehman was president.

Judge Kaufman, sitting as the judge in the bankruptcy

proceedings of the Third Ave. Transit the other day, appointed Mr. Lehman one of the trustees. The other two trustees are Lester T. Doyle and James Hodan, the president.

Mr. Kaufman, at the time the Hiss case came for assignment of court, was in charge of the criminal calendar.

New York Journal-American

Thursday, June 30, 1949

As Pegler Sees It

Judge Samuel Kaufman And the Alger Hiss Trial

By WESTBROOK PEGLER

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JUDGE SAMUEL H. KAUFMAN, SITTING IN THE ALGER HISS perjury show downtown, is exercised over the uncomplimentary press that he has been getting from George Sokolaky and me. I name Mr. Sokolaky first only



WESTBROOK PEGLER

out of courtesy, because I believe his comments on the production under Judge Kaufman's supervision have been less opinionated than mine.

I regret this, but first things first, so I regret first the trend and present state of affairs in our Federal Courts, which have unquestionably brought the honor and integrity of our national jurisprudence into question with many of our citizens and into downright disrepute with many others.

I know nothing specifically about Judge Kaufman which I could allege as a contribution to this deplorable result. He is an organization politician, as I observed in an essay which gave him concern, but most of our judges have been such for many years.

He lacked certain professional indorsements which normally would be reassuring and with many of us are minimum requirements. But some citizens would excuse that, although I would take note of it as an important deficiency.

As to his management of the trial, I have only a layman's opinion, which may be defective from the standpoint of a lawyer. Laymen outnumber lawyers enormously and we are entitled to opinions, erroneous as they may be. The ladies and gentlemen of the jury are laymen. In many cases, laymen decide life or death cases. So laymen enjoy high standing around here after all.

I HAVE TAKEN A SERIOUS INTEREST in the Felix Frankfurter organization, or the unorganized but coherent element, not to say group, in the Roosevelt and Truman Administrations of the United States Government. I think Frankfurter's influence has been deleterious and his attitude arrogant, impudent and not forthright.

Hiss was a member of this clique or cult which permeated our Government in many departments. Frankfurter selected Henry L. Stimson to be Secretary of War during the Great War and Stimson, a very old man, was in a position to advance to reality plans which Frankfurter desired to put into effect.

I suspect that Frankfurter had a strongly influential voice, when he should have had no voice at all, in the decision to concentrate on the rescue of Soviet Russia from Hitler's armies while our people fought one-handed in the Pacific and lost many lives in consequence.

It might mean, and I suspect it did mean, that Frankfurter had a voice in the decision to attack across the Channel and let Stalin have his way throughout the Balkans and Poland. This method put Stalin in the commanding position which he now occupies.

These suspicions may be erroneous, but they are not unfounded and Frankfurter, by the impudence that I have mentioned, and the very mysteriousness of his clique, including the planting of his friend, David K. Niles, in the White House, has himself to blame for their existence.

He is the only Judge of the Supreme Court who ever butted into so many matters that were not the legitimate business of a man in his job. During the war he even got regularly from the Federal Communications Commission restricted reports which were not available to members of Congress representing the people.

FRANKFURTER DOES NOT REPRESENT THE PEOPLE. They never elected him to even the lowest municipal office in a village. Yet he has had a great influence on the fate of our people and our country, and I have a right to oppose that influence and I do.

Alger Hiss is a Frankfurter man. Dean Acheson, our Secretary of State, is a Frankfurter man to the same extent that Stimson was. Frankfurter sits on our highest court and when Hiss comes on trial charged, really, with treachery to our country—for the present perjury charges are only a legal pretext—this Supreme Court Judge steps down and shucks the weight of his influence into the defense.

It is a synthetic weight, I do insist, but our people accept this counterfeit as valid repute, and Frankfurter undoubtedly was counting on that.

It wasn't necessary for this Supreme Court Judge to butt into this trial as a "character" witness for a man who is also guilty of the utterly unforgivable crime of adhering to a veritable enemy of our country. If he is guilty as charged in this case.

In fact, as I will show by analyzing Frankfurter's spy and clever double-talk one day soon, he did not lay it on the line that Hiss was a man of good character and loyalty, but just made a deceptive ballgame and seemed to do so.

If he wanted to say Hiss was a man of high character and obvious loyalty, he could have said it in a few words. I could. Anybody could. Instead, this learned man chewed up a lot of language and ducked the issue. He didn't do that because he was inarticulate, but because he planned it that way.

UNFORTUNATELY—AND ROOSEVELT WOULD HAVE IT SO
—our Federal Courts have lost much of the respect, amounting to awe, which they used to command, even when we had some pretty cynical corporation people on the bench here and there. But the cynics were only here and there. Nowadays, there are so many New Deal Judges that a citizen who has put his head up in opposition reasonably feels that he can't expect a fair trial.

I think that in this trial not only Hiss, but the Frankfurter cult, as a political force of great power but without substance, is on trial, too. The Roosevelt Administration is on trial, and the Roosevelt myth. President Truman is on trial with respect to his "red-herring" defense of his Administration, including Alger Hiss.

This case called for the most open and honest demonstration of sincerity that the Department of Justice was capable of. Instead, not even Mr. Thomas Murphy, the prosecuting attorney and a Government officer, was able to tell me, when I asked him directly, how it happened that this case was assigned to Judge Kaufman for trial.

The court should have assigned the most distinguished and the least political judge available in the country to try Alger Hiss. Judge Kaufman does not meet these specifications. As proof of his honesty, the Department of Justice should have put the prosecution in the hands of the best man who could be found. Meaning no disparagement of Mr. Murphy, I assert that he falls short of this standard.

As to the influence of printed remarks on the jury, I say Judge Kaufman might better have taken judicial notice of the prejudicial remarks published by Eleanor Roosevelt on June 8, which served up to a public contention that Hiss was innocent because, in her dogmatic and motivated opinion, the principal witness against him was incredible.

To many citizens, Mrs. Roosevelt is a female Mahatma, the pet of a god foregone to Valhalla, and just a little less than holy herself. Her remarks would be more likely to be prejudicial than mine or Sokolsky's. I believe she knew this, and that that was the reason why she printed them.

4-Fri., July 1, 1949

New York Journal American

How Did Judge Kaufman Get Hiss Trial Assignment?

By **LESLIE GOULD**
Financial Editor

How did Federal Judge Samuel H. Kaufman get the assignment to preside at the Alger Hiss perjury trial?

The answer to this question—or so we thought—should be easy to obtain. There should be no mystery about such a simple matter. But for some reason there, is and those who should know the answer are reluctant to discuss it.

This reluctance includes the judge, the acting senior justice, the court clerk, the court stenographers and others.

The assignment and the circumstances surrounding it should in no way have anything to do with the subject of the trial—whether Alger Hiss, one of the bright young men of the New Deal in the State Department, committed perjury in denying statements of Whittaker Chambers, a confessed Soviet spy ring courier.

The courts are public bodies, with the salaries of the justices, the attendants and the justices'

secretaries paid by the taxpayers. How a particular judge is assigned to a certain case is supposed to be a matter of record.

Judge Kaufman was in charge of the criminal calendar at the time the Hiss case came up. He was sitting in what is known as Part 312. His turn to sit there was for the month of May.

Originally, the Hiss case was expected to come before the court in April. The Federal prosecutor assigned to the case was ill, and there had been requests for adjournments, so the Hiss matter did not come up until May 23, when Judge Kaufman was sitting.

On May 23, Judge Kaufman announced he was going to take the case himself, and he set the date for trial as May 31.

In an effort to find out whether Judge Kaufman assigned the case to himself or was requested by the acting senior judge—Justice Goddard—to do so, this writer put in a day of telephone calls.

Judge Kaufman's secretary, when first called and asked if she

could give this reporter some information, said:

"You do not wish information. You want misinformation."

She said she did not care to talk to this reporter, repeating "you want misinformation."

GODDARD WOULDN'T SAY.

Another call to Judge Kaufman's office during the noon recess did not reach the justice, but later his secretary phoned and said Judge Kaufman "told me to tell you he will not discuss this with you or anyone else while the case is pending."

Justice Goddard could not answer the phone, being in conference, but sent word that Judge Kaufman was sitting criminal calendar in May when the Hiss case was assigned. He would not say whether he had or had not asked Judge Kaufman to take the case.

The office of the clerk of the court confirmed that Judge Kaufman was in charge of the criminal calendar at the time and "apparently" he held on to it himself.

There was nothing to show whether the acting presiding justice had asked Mr. Kaufman to take the case, but the clerk's office said there was an outside possibility this was the case.

The office of the court stenographers, who have the job under government contract to transcribe all court proceedings, reported the man who was on duty before Judge Kaufman on May 31 was at home sick and would be out until August.

The office said it would check and see if this man's notebooks were available, and a later call brought the statement:

"I can't find his notebook. He may have taken it home. I called his home but he can't talk. He has been sick for a long time."

NEW TO FEDERAL BENCH.

The office of the court stenographers promised that when this man phoned in or returned to the office, they would endeavor to get the transcription for May 31, when Judge Kaufman an-



JUDGE KAUFMAN
Answer Hard to Get
Journal-American Photo by Clarence Allman

nounced he was taking the assignment.

Kaufman is a newcomer to the Federal bench, having received an interim appointment from President Truman when the 80th Congress failed to act on his nomination. He was confirmed by the Senate in January. He had the backing of Tammany Hall and Ed Flynn, Democratic boss of the Bronx.

When he was first considered for the nomination, he was endorsed by the New York County Lawyers Association, of which I. Howard Lehman is the president.

The favorable report on Kaufman was made by the N. Y. County Lawyers Association's Judiciary Committee, which was headed at the time by Lloyd Paul Stryker, chief defense counsel for Alger Hiss on trial before Judge Kaufman. Stryker told this reporter he was "chairman as well as acting chairman" of the Judiciary Committee at that time.

Two other lawyer organizations opposed Kaufman. They are the Association of the Bar of New York and the Federal Bar Association of New York, New Jersey and Connecticut. The Federal Association rescinded an earlier approval.

Hiss Judge Kept Juror U. S. Protested on June 2

By LESLIE GOULD
Financial Editor

Now that the Alger Hiss perjury case has gone to the jury, it can be revealed for the first time that on the second day of the trial the Government objected to one of the jurors. In one of the closed sessions in the chambers of Federal Judge Samuel H. Kaufman, who presided, Assistant United States Attorney Thomas Murphy told the judge one of the jurors had expressed an opinion outside the court as to the innocence of the defendant. This was on June 2, the second day of the trial.

Judge Kaufman reportedly told Mr. Murphy there was not sufficient evidence to punish this juror for contempt, and that all the prosecutor had at most was hearsay and suspicion.



Lloyd P. Stryker, chief of the Alger Hiss defense counsel, was present at the session.

Mr. Murphy suggested that the court substitute one of the two alternates and excuse this juror. There reportedly was sickness in the juror's family.

Judge Kaufman turned down this suggestion, when Mr. Stryker objected, and the juror sat in the box for the balance of the case.

Mr. Murphy, in protesting, contended a juror must be like Caesar's wife, above suspicion, and therefore this juror should be excused.

This whole episode of the juror is part of the court record and along with other discussions in the chambers of Judge Kaufman will be included in the public report available on the rendering of the verdict.

First tip on this unusual happening came from John Shine and Howard Rushmore who have done an outstanding job of objective reporting on this case for the N. Y. Journal-American.

Judge Kaufman refused to discuss the matter even after the case had been handed to the jurors and they had retired to

Judge: 'No Comment'

Confronted with this article, Judge Kaufman told reporters they were "welcome" to a copy of the record. The judge refused comment.

Murphy, after reading it said: "The article is correct."

The defense offered no comment but Stryker called an immediate conference of his colleagues to discuss the article.

their quarters to deliberate on a verdict.

In light of the above, the closing remarks to the jury of Prosecutor Murphy in his summation are significant:

He said:
"The foreman, for instance, is here by virtue of chance. He is the juror known as No. 1. He has no authority other than to announce the verdict . . . Or assuming that you told your wife — Mr. Foreman, or anybody, that you thought so and so was lying. Today is the day. You gave your oath on May 31 and today I ask you as a representative of the United States Government to come back and put the lie to that man's face."

This is just one of the things that have made this case a strange, fantastic and unusual one. The conduct of the trial and the rulings from the bench will provide material for debates and discussions for months to come.

The prosecutor in his summation told the jurors "something you want to think about is whether two judges of the Supreme Court could with propriety come into this court." He was referring to the unusual — to say the least — appearance of Justices Felix Frankfurter and Stanley Reed as character witnesses for Hiss.

New York World Telegram, July 8, 1949

Juror's Pro-Hiss Bias Charged; U. S. Effort to Unseat Him Failed

By VICTOR LASKY,
World-Telegram Staff Writer.

On the fourth day of the Alger Hiss perjury trial the government objected to one of the 12 jurors on the ground that he allegedly had expressed a belief, outside the court, that Mr. Hiss was innocent.

This can be revealed today, now that the jury has begun its deliberation, but the World-Telegram is withholding the juror's name since no charge has been made.

Assistant U. S. Attorney Thomas F. Murphy, chief prosecutor, brought the matter to light when he asked Judge Samuel H. Kaufman to excuse the juror and substitute one of the two alternates.

Judge Kaufman reportedly declared there was not sufficient evidence to punish the juror for contempt and that all that Mr. Murphy had was hearsay. In addition, the judge reportedly declared that the juror's opinion might well be changed by developments in the trial.

Asked Substitution.

Mr. Murphy confirmed today that he had asked for a substitution for the juror. He said he had not asked for a mistrial and had not asked that the juror be disqualified.

"The government had to be careful," he said. The defense could claim double jeopardy. I just made a suggestion that he be removed but the judge denied it."

Judge Kaufman, asked about the matter, replied he had no comment, but advised reporters to check the record of his conversations with attorneys in chambers.

Visit to Wife Reported.

According to the record, the juror was reported to have visited his wife, El in a convalescent home, soon after the trial began. He allegedly told her he believed Whittaker Chambers was lying

and that he couldn't believe Mr. Hiss guilty of an untruth.

The wife apparently relayed this to visitors and one of them reported the conversation to the government. Mr. Murphy immediately took the information to Judge Kaufman in chambers. Lloyd Paul Stryker, Mr. Hiss' chief counsel, was among those present.

Mr. Murphy, it was said, even

suggested a face-saving arrangement for the juror—a statement that he had been replaced by an alternate because of his wife's illness.

Mentioned in Summation.

The incident was touched upon by Mr. Murphy in his summation yesterday when he said:

"The foreman, for instance, is here by virtue of chance. He is the foreman known as No. 1. He

has no authority other than to announce the verdict. You are all individual jurors and you gave your oaths when you were sworn on May 31 that you would decide this case on the evidence here, that you had no preconceived idea of the guilt or innocence of (Mr. Hiss), or assuming that you told your wife, Mr. Foreman, or anybody, that you thought so and so was lying.

"Today is the day. You gave that oath on May 31 and today I ask you as a representative of the United States government to come back and put the No in that man's face."

Mr. Murphy's remarks quoted above are exactly as taken from the court record.

New York Journal American, Saturday, July 9, 1949

New York Journal-American

Sat., July 9, 1949

Hiss Jurywoman Blames Foreman

Sharp criticism of the foreman of the jury that failed to reach a verdict in the Alger Hiss perjury trial came today from Mrs. Helen G. Sweatt, a real estate broker of 811 W. 138th st.

Mrs. Sweatt was one of the eight jurors who voted for conviction of Hiss on two counts of perjury.

Mrs. Sweatt voiced the criticism when she was told after the jury was discharged that the N. Y. Journal-American revealed yesterday that Assistant U. S. Attorney Murphy asked Federal Judge Kaufman to excuse Hubert E. James, of 1067 Madison ave. during the first week of the trial.

Murphy claimed he had received information that James, the first juror to be selected, had made statements outside the court regarding his belief in Hiss' innocence. Kaufman refused Murphy's request.

Might Have Reached Verdict

"I'm not surprised," Mrs. Sweatt said. "If James had not been foreman, I believe the three other jurors might have voted for conviction. He led the fight to support the defense."

James said before he left the courthouse:

"I never spoke to anyone about the case outside and absolutely and categorically deny any such accusation."

Criticism of the appearances of Supreme Court Justices and Frankfurter and Reed as character witnesses for Hiss also came from Allen M. Blake, of 1478 Parkchester rd., the Bronx, who also voted for conviction.

"I did not approve of their participation in this trial. I regard it as a breach of judicial propriety—what if the case had gone to the Supreme Court!"

James P. Hanrahan of 2588 Bainbridge ave., Bronx, a marine accountant and one of the jurors who voted for conviction, said the 8-4 count against Hiss "was the same from almost the start of our deliberations."

One Three-Sided Ballot

Other jurors said an early tentative ballot showed the count 4 for conviction, 4 for acquittal and 4 undecided. The first poll of the jury resulted in the 8-4 figure.

During the total of 26 hours the jury was out, tempers flared and voices were raised in the jury room.

On one occasion, Arthur L. Pavliger, of 315 West End ave., an advertising executive who voted for acquittal, and Robert W. Pieman, of 299 Riverside dr., a credit analyst who voted for conviction, bumped together in the jury box and snarled angry words at each other.

During the last two times Kaufman ordered them back for consultations, the feud between the two factions was apparent in flushed faces, angry glances and disagreements with announcements of James.

Juror Assails Pro-Hiss Quartet

"The foreman was emotional, two were Mockheads and one was a dope."

That was the description given today of the four jurors who plunked for Alger Hiss' acquittal on perjury charges.

This summation came in a storm of angry words from James P. Hanrahan, of 2550 Bambridge ave., Bronx, one of the eight jurors who voted for conviction.

Hanrahan said the four were "so stubborn you could have knocked their heads against the wall and it would have made no difference.

"Eight of us pounded the hell out of the four since Thursday night but we couldn't get anywhere."

'REASONING FANTASTIC'

The reasoning of the four for acquittal was "simply fantastic," Hanrahan added. He also said the four were convinced the controversial typewriter was in the Hiss home at a time when it was damaging to the defendant, and he added, heatedly:

"But they interjected an imaginary Mr. X or John Doe who somehow must have got into the Hiss home and copied these State Department documents for the Soviet—a simply fantastic way of reasoning."

The foreman of the jury thus described by Hanrahan, a marine accountant, is Hubert Edward James, of 1967 Madison ave., a General Motors Acceptance Corp. executive.

The other three were Louis HEM, of 46 Lexington ave., Bronx; Arthur L. Fowler, of 515 West Endave., and Mrs. Louise Tuxia, of 926 W. 129th st.

ALSO VOTED CONVICTION.

Another juror, Vincent E. Shaw, of 633 Wilcox ave., Bronx, said he was one of the first to vote for conviction, also basing much of his decision on the old Woodstock. He mentioned typing errors which occurred in both the letters and documents which assertedly Mrs. Hiss had typed.

Mrs. Helen W. Sweatt, of 118 W. 129th st., another juror, described the manner in which the jurors took turns sitting at the old machine, comparing its errors.

Frederick W. Gaffney, of 34 Metropolitan Oval, Bronx, said he voted for conviction and was "proud of it." He added that none of the four who held out for acquittal "would concede any of the facts which we thought we had proved to them."

"The outcome of the trial is a worse injustice than the alleged crime itself," Gaffney declared.

'A Real Cat and Dog Fight,' Says Young Juror in Hiss Case

The most famous room in the nation the last two days was Room 1301, U.S. Courthouse, Foley Square. There 10 men and two women, comprising the Alger Hiss jury, attempted to reach a verdict in one of the most dramatic trials of our times.

What went on in Room 1301? "It was a real cat and dog fight," said juror 3—James F. Hanrahan, a youthful accountant of 2550 Bainbridge Ave., Ex. Mr. Hanrahan, employed by the Overseas Tankship Corp., 551 Fifth Ave., had voted for a conviction.

"The eight of us were pounding the hell out of the other four since Thursday night. Oh, you could see the four of them sitting there. Everybody took a whack at them, but no good.

"We were all hammering away at them, till I was up to here," he continued, grabbing his neck. "trying to sway them. But no use, no use."

Tempers Short.

Tempers flared to such an extent that two jurors snapped at each other while entering the courtroom during their lengthy deliberations. The bitterness re-

volved around the credibility of Whittaker Chambers.

According to Mrs. Helen W. Sweatt, Juror 6, a real estate broker of 611 W. 180th St., the four holdout jurors just couldn't believe Mr. Chambers was telling the truth. Mrs. Sweatt said she voted for a conviction believing that Mrs. Chambers was telling the truth.

"I just can't believe that Mrs. Chambers was the type of person who would lie," Mrs. Sweatt said.

Mrs. Sweatt also paid tribute to Thomas F. Murphy, the prosecutor, for his "eloquent" summation of the government's case. "Most of the jury believe it was the real turning point of the case," she said. In his summation Mr. Murphy had blasted Mr. Hiss as a traitor.

Typewriter Key.

Also of importance in the position taken by the holdouts, she said, was the fact they could not get themselves to believe that the Hisses had typed the documents.

The typewriter, which was in the jury room, was tested by most of the jurors.

Juror 8, Allen M. Blake of 1670

Parkchester Rd., Ex., production manager for Cutler Hammer Co., 436 Southern Blvd., Ex., said the "presence of two Supreme Court justices was a grave impropriety. They should not have appeared on the witness stand."

He referred to Justices Felix Frankfurter and Stanley Reed who appeared as character witnesses for Mr. Hiss.

Hiss Backers Silent.

None of the four who sided with Mr. Hiss would comment.

Hubert E. James, the silver-haired foreman, a junior executive of the General Motors Acceptance Corp., rushed off to his home at 1067 Madison Ave. without realizing the storm he had created earlier in the day.

A transcript, released by Judge Kaufman, showed Mr. James had been investigated shortly after the trial started because the FBI received a report he was sympathetic to Mr. Hiss. The government asked for his removal but Judge Kaufman refused to do anything about it.

Mr. James had been most insistent about Mr. Hiss' innocence, according to Mrs. Sweatt.

Jurors Denounce Foreman James

Some of the jurors in the Alger Hiss Trial were vehement yesterday in their denunciation of Hubert E. James, jury foreman, whom they said was for acquittal from the first and helped keep three other jurors standing out for acquittal despite the coaxing of the other eight for conviction.

Mrs. Helen Sweett, of 611 W. 190th St., flatly charged prejudice.

"Those who voted for acquittal could not be convinced otherwise," she said. "Nothing we could do could make them go in our way. There might have been a Communist sympathizer in the group."

Frederick Caffery, of 14 Metropolitan Oval, Bronx, who also voted for conviction, said the jury disagreement was a disgrace.

"The lack of a verdict," he said, "was a greater crime than Hiss' crime. James, from the beginning, was against a verdict of guilty; and I learned that he told his wife that."

Rumors that James had told his wife Catherine he was convinced of Hiss' innocence before he had heard any substantial amount of testimony led the FBI to a New Jersey health resort early in June, when two guests there reportedly were told by Mrs. James of her husband's feelings about the trial.

One of the guests was not identified, but the other was Miss Lillian Jaeger, of 69 W. 24th St., who was registered from May 29 through June 7 at the St. Francis Nursing Home, at Denville, near Dover. Mrs. James was registered at the health resort from May 23 through June 21.

James, a junior executive in the General Motors Acceptance Corp., 1775 Broadway, denied yesterday morning at his 1087 Madison Ave. home that he had discussed the case with his wife during the early part of the trial or prior to it.

"On Monday, May 23, I took my wife to the St. Francis Rest Home, where she remained for three weeks," he said. "On Tuesday, May 31, the Hiss jury was selected and the trial began. I did not see my wife between May 29 and the morning of Saturday, June 4, so any discussion she may have had up till then could not possibly have been based on any discussion with me."

Who Takes Blame

Mrs. James said:

"Any opinions I expressed at the rest home were mine and mine alone. It would simply have been impossible for me to have described my husband's feelings in the matter."

James Finarshan, of 2550 Bainbridge Ave., another juror said yesterday he was mystified over how four jurors held out for acquittal instead of voting for a conviction as he did.

"The evidence of guilt was plainly presented," he asserted.

One of the jurors who voted for acquittal, Arthur Pawliger, of 215 West End Ave., declared:

"There was definite phrasing of testimony by Chambers that could not be considered as the truth in any way at all. He recalled incidents of 25 years ago with too much accuracy, such as his description of the wallpaper in Hiss' home. Hiss definitely was not proven guilty."

New York Herald Tribune, Tuesday
July 12, 1949

Five Hiss Jurors Express Belief Kaufman Was Biased for Defense

2 Others Doubt Prejudice and the Rest Avoid
Comment or Take No Stand on Judge

By Mac R. Johnson

Five members of the jury which tried Alger Hiss on perjury charges said yesterday that they received the definite impression during the course of the trial that Judge Samuel H. Kaufman was biased

for the defense. On the other hand, two jurymen said they did not believe that Judge Kaufman was biased for the defense and the remaining three "took no stand" on the charge. Representative Richard M. Nixon, Republican, of California.

Mr. Nixon called for an investigation of Judge Kaufman's conduct after the trial ended Friday night with eight jurors voting for conviction and four for acquittal. Mr. Nixon said the judge's favoritism was "obvious and apparent."

Three other jurors had no comment whatsoever, one declined to take any "side stand" and the twelfth, Mrs. Louise A. Turian, a dressmaker, of 606 West 126th Street, was visiting on Long Island and could not be reached. She voted for acquittal.

Meanwhile, Judge Kaufman reiterated that he had decided to "stand on the record" in regard to accusations made against his handling of the trial.

His one-sentence statement said: "After conferring with some of the judges in this court (United States District Court) I have decided to stand on the record and not enter into any controversy."

The comments of the jury members, with the manner in which they voted during deliberations noted in parentheses, follows:

JUDGE BIASED

Mrs. Helen G. Sweatt, real estate broker for Beechwood Lake, Inc., 79 West Fortieth Street (Guilty)—"I feel there was a great deal of bias against the prosecution. I tried not to take too much notice as I tried to be fair to both sides. But it was difficult day to Judge Kaufman's decision. He should have permitted the witnesses and testimony that the

(Continued on page 6, column 1)

5 Hiss Jurors

(Continued from page one)

prosecution wanted. I was interested in hearing Mrs. Hede Massing and the Cherner Motor Company executive.

"After all, that Ford car was what became of it seemed to be important testimony, but the judge wouldn't permit the testimony. And it wasn't right for the judge to allow that psychiatrist (Dr. Carl Singer) to sit there all the while that Mr. Chambers was on the witness stand. At the same time he was watching the jurors and it made some of us nervous."

"Then I recall that the judge let them ask questions about a suicide in Mr. Chambers's family but would not permit the same kind of questions about suicides in Mr. Hiss's family. Then the judge didn't let the prosecution identify the Communists Harold Ware and Jay Peters. Their names were brought into the testimony by Mr. Chambers as friends of Mr. Hiss but it was stricken from the record. Mrs. Chambers's testimony opened my mind. It was the best and most fruitful. When she described the interior of the Hiss home and told of her visits, I knew she couldn't be making it up."

John S. Adrian, office manager for Walter B. Cooke, Inc., funeral home, 163 East Tremont Avenue, the Bronx. (Guilty)—"The judge favored the defense as far as the admission of witnesses was concerned. I did notice such things. However, I didn't let it influence me. I paid particular attention to the evidence that was admitted."

Frederick W. Gaffney, delivery superintendent for Esso Standard Oil Company, 330 Freeman Street, Brooklyn. (Guilty)—"Here's the way I'd explain it. Some of the judge's decisions were—well, let's

call them one-sided. But again, that could have been made according to law. I did give thought to the fact that the judge seemed to be turning down a lot of prosecution requests.

"In the case of Mrs. Massing, I can understand why she was not allowed to testify as it was a perjury case we were trying—not a question of Communism. If she had been allowed to testify, it might have influenced other people on the jury. If it had been proved that Hiss was a Communist, the other four might have swung the other way. All in all, none of the judges's decisions influenced me, although some of them were strange."

Robert W. Pitman, credit analyst for Dun & Bradstreet, Inc., 290 Broadway. (Guilty)—"It's pretty difficult to decide if Judge Kaufman was biased. If we were lawyers we wouldn't have been on the jury. There were times when he showed a little preference to the defense. And I think it was poor taste to show so much deference to the two Supreme Court Justices, Felix Frankfurter and Stanley Reed. However, I can't say he did it deliberately to impress the jury one way or the other."

Mr. Pitman also accused some of the jurors who voted for acquittal of "not weighing the evidence." He said that one of the persons voting for acquittal declared during deliberations that "you can't believe a word from an ex-Communist," meaning Mr. Chambers. "I told him that if that's the way he felt about it, then he should not have been on the jury. During the selection of the jury, one of the questions covered that exact situation," Mr. Pitman said.

Vincent H. Shaw, clerk for Penick & Ford, Ltd., Inc., 430 Lexington Avenue. (Guilty)—"I'm surprised that Congress might in-

vestigate the case, but the judge did appear to favor the defense."

PAIR TRIAL

Arthur L. Fawling, employee of Advertising Distributors of America, Inc., 400 Madison Avenue. (Not Guilty)—"The judge was not prejudiced. I don't think he favored one side or the other."

Alan M. Biaks, production manager for Cutler-Hammer, Inc., 490 Southern Boulevard, the Bronx. (Guilty)—"Judge Kaufman's attitude toward the defense witnesses seemed to be different than toward the others. However, I don't think he was really biased in favor of Mr. Hiss. In fact, if all this hadn't been in the newspapers after the trial, I wouldn't have thought about it at all."

NO STAND

James Hanrahan, marine accountant, Overseas Tankship Corporation, 551 Fifth Avenue. (Guilty)—"I'm not versed in legal matters so I can't say the judge was right or wrong in barring certain testimony and witnesses. The judge's name was never mentioned in the closed room where we considered the case. There was no talk about whether he was biased or not. I'd go to Washington and testify if I was called, but I have no opinion now."

NO COMMENT

Hubert Edgar James, foreman, of 1067 Madison Avenue, a junior executive with General Motors Acceptance Corporation, 1775 Broadway. (Not Guilty)—"I have no comment at all."

Louis Hill, secretary of the Manhattan Bazaar House, Inc., 697 Broadway. (Not Guilty)—"I have no comment."

Thomas O. Bryan, of 126 East Fifty-seventh Street, an unemployed hotel manager. (Guilty)—"I really don't want to comment on it. The day-to-day record is in the press."

New York Journal American, Tuesday, July 12, 1949

Five Hiss Jurors Charge Judge Was Biased

Five of the members of the jury that heard the Alger Hiss case were on record today as saying they found Federal Judge Kaufman biased in favor of the former New Dealer.

The comments of these jurors, all of whom voted to find Hiss guilty, although four of their members stood for acquittal, follow:

FREDERICK W. GAFFNEY, 326 Prussman st., Brooklyn, delivery

superintendent for Esso Standard Oil:

"Here's the way I would explain it. Some of the judge's decisions were — well let's call them one-sided.

"In the case of Mrs. Manning, former wife of Gerhardt Klaser (ball-jumping No. 1 Communist agent), I can understand why she was not allowed to testify as it was a perjury case we were trying — not a question of Com-

munist.

"If it had been proved that Hiss was a Communist, the other four might have swung the other way."

MRS. HELEN G. SWEATT, real estate broker, of 78 W. 40th st.

"I feel there was a great deal of bias against the prosecution. I tried to be fair to both sides. But it was difficult due to Judge Kaufman's decisions."

JOHN S. ADRIAN, office man- ager for Walter B. Cooke, Inc., funeral home, 165 E. Tremont ave., Bronx:

"The judge favored the de-

fense as far as the admission of witnesses was concerned. I didn't let it influence me."

ROBERT W. FITZMAN, credit analyst for Dun & Bradstreet, Inc., 200 Broadway:

"I think it was poor taste to show so much deference to the two Supreme Court Justices.

VINCENT H. SHAW, clerk, Penick & Ford, Ltd., 430 Lexington ave:

"I am surprised that Congress might investigate the case, but the judge did appear to favor the defense.

Whittaker Chambers on the Day After the Trial



The accuser of Alger Hiss on his Maryland farm yesterday

House Group Split on Hiss Trial Inquiry

4 Call For Action, Chairman Opposed

Nixon Accuses Kaufman of Bias; Judge Replies Case Speaks for Itself

From the Herald Tribune Bureau
WASHINGTON, July 9.—Re-opening of the Congressional investigation into the Hiss-Chambers case and inquiry into the conduct of Judge Samuel H. Kaufman was urged today as a result of the hung jury in the perjury trial of Alger Hiss, and promptly encountered sharp criticism.

Four members—three Republicans and a Democrat—of the House Committee on Un-American Activities, which originally "broke" the sensational case, were in favor of reinstating Hiss inquiry, although they differed as to whether it should be done in open or secret session.

Their chairman, however, was against it. Representative John S. Wood, Democrat of Georgia, said he believed reopening the committee investigation would be "unjustifiable interference" with the Department of Justice and said he opposed it. The committee meets Tuesday. He had no comment on Judge Kaufman's conduct of the case, and suggestions that his committee investigate the matter. But speaking solely of procedure, he said:

"If the judge's conduct was improper this committee could investigate it. But the matter should be turned over to the Judiciary Committee for impeachment."

Four Urge Reopening

Reopening of the investigation by the House committee was urged by Representatives Richard M. Nixon, of California; Francis Case, of South Dakota; Harold H. Velde, of Illinois, Republicans; and Morgan M. Spaulder, Democrat, of Missouri.

But at his home in Mount Kisco, N. Y. Representative Emanuel Celler, Democrat, of New York, chairman of the House Judiciary Committee, said it was "startling" to hear talk of impeachment. While observing his committee would have jurisdiction over any impeachment resolution, Mr. Celler commented: "From what I have read in the papers as to the conduct of Judge Kaufman, that conduct is unassailable. I cannot understand how it could be the subject of any attack that could rise to the importance of impeachment."

"As the rulings of Judge Kaufman and his charge were reflected in the papers day by day, I, as a lawyer, found nothing that could subject him to any criticism. He was eminently within his rights to do exactly as he did. I don't understand what this hubbub is all about."

Celler Might Disqualify Self

Mr. Celler added that if the matter came before his committee, he would probably disqualify himself, because Judge Kaufman was formerly his law partner in the firm of Kaufman, Wettmer & Celler, 60 Wall Street.

Judge Kaufman himself said: "The record of the trial speaks for itself. The only comment I can

(Continued on page 16, column 2)

make on that is that the record of the trial and the government's report speak for themselves. My only purpose was to see that the government and the defendant received a fair trial under the laws of evidence."

Assistant United States Attorney Thomas F. Murphy, trial prosecutor, was not available, and United States Attorney John F. X. McCohy declined to comment.

Robert P. Patterson, president of the Association of the Bar of the City of New York and former Secretary of War, declared:

"I have known Judge Kaufman for many years and esteem him highly. I have followed his career on the bench and I am convinced that he is an able and conscientious judge. His rulings in the Hiss trial and his charge to the jury, as reported in the public press, struck me as eminently fair."

"It would be a blow to the independence of the judiciary and to the sound administration of justice if a judge were to be investigated by a committee of Congress whenever the committee did not like the rulings made by the judge or did not agree with the outcome of the case tried by him. The statements of Congressmen critical of the judge are therefore to be deplored."

The Congressmen asking the investigation want, among other things, to summon Mrs. Hede Massing, former wife of Communist leader, Gerhart Eisler, who fled the United States in May.

The government tried to put her on as a witness in the Hiss trial, but Judge Kaufman refused to permit it. The Representatives disagree, however, as to whether Mrs. Massing should testify in public or secret session. Mr. Nixon wants it on the record. Mr. Case wants it kept secret until after the new Hiss trial.

Judge Kaufman's "prejudice for the defense and against the prosecution was so obvious and apparent that the jury's 9-to-4 vote for conviction frankly came as a surprise to me," said Mr. Nixon.

"When the full facts of the conduct of this trial are laid before the nation I believe the people will be shocked," Mr. Nixon said. "It is my intention, shared by a number of my colleagues, that the full facts shall be presented in due time."

Representative Case said Judge Kaufman's refusal to let government witnesses testify was "one of the disturbing issues of the trial." Mr. Nixon went further. He said he believed the committee should inquire into Judge Kaufman's "fitness to serve on the bench."

Mr. Hiss, meanwhile, began a vacation today and the government locked up the typewriter that had been an item of contention in the trial.

Immediately after the jury was dismissed, the fate of the typewriter was foremost in the mind of Mr. Murphy.

Before the jury had left the room, Mr. Murphy made a motion to impound the typewriter. He said he wanted the antique Woodstock upright under lock and key until Mr. Hiss goes on trial again, probably in the fall.

The defense attorney told Judge Kaufman that would not be necessary. He said the court was welcome to the machine.

Mr. Hiss said he expects to visit his mother at Baltimore, then go to his summer home at Peacham, Vt., for a long rest.

Whittaker Chambers took time

out from baling hay on his farm at Westminster, Md., today to say: "I am a man who grudgingly and reluctantly, step by step, has been destroying himself so that this nation and the fate it lives by may continue to exist."

Mr. Nixon amplified his comments on the case in a broadcast interview this evening with Bert Andrews, chief Washington correspondent of the New York Herald Tribune, over station WMAL, the American Broadcasting Company. Mr. Nixon declared then that "the entire Truman administration was extremely anxious that nothing bad happen to Mr. Hiss" because it would prove Communist infiltration of the Federal government.

"A new trial should be held just as soon as possible," he said. "The issues in this case are so important that the country wants a decision. It is true that Mr. Hiss is technically accused merely of perjury . . . but the real truth is that if he is guilty of the perjury charges he is also guilty of having been a traitor to his country. Therefore it is of the utmost importance that his guilt or innocence be completely established and not left in doubt because of technicalities."

In response to a question from Mr. Andrews as to what he meant by "technicalities," Mr. Nixon said:

"For one thing, there was the judge's refusal to let two important witnesses testify. One was Hede Massing. Another was William Rosen, who received the 1929 automobile which Mr. Hiss insisted he gave to Mr. Chambers. Perhaps the judge has good technical grounds for barring these witnesses. But I think the average American would all technicalities waived in this case. I think those two witnesses should have been permitted to testify about their knowledge, if any, of Mr. Hiss. For all any one knows, their testimony might have made a great difference in the minds of the jurors."

"Is there any way of getting their testimony on the record?" asked Mr. Andrews.

"There certainly is," replied Mr. Nixon. Referring to Mrs. Massing he said: "It is my intention to ask the House Committee on Un-American Activities to call as a witness and to find out just what she would have said had she been allowed to testify in court. In that way, the American people will at least have the knowledge of what she would have sworn to. And they will be able to form their own opinion as to what effect her testimony might have had on the jury."

Mr. Nixon said he saw little point in summoning Mr. Rosen, who refused to answer committee questions last year on the ground that his replies might incriminate him, but said he believed Mr. Rosen should have been allowed to testify at the trial—"if merely to let the jury decide what reasons he had for refusing to answer."

The California Congressman, whom Mr. Andrews gave credit for keeping the Hiss-Chambers case open before the House committee last year, declared that Assistant District Attorney Thomas F. Murphy, the prosecutor in the Hiss trial, "did a great job against great odds in trying to bring out the whole truth."

Mr. Nixon branded as "ridiculous"

and "nonsensical" defense charges that Whittaker Chambers's charges against Mr. Hiss were brought out to aid the Republican campaign last year, noting that they were not made until after the election.

"Then you don't think politics entered into the case at all?" asked Mr. Andrews.

"I didn't say that," Mr. Nixon said. "I certainly do think politics entered into it. I think the entire Truman administration was extremely anxious that nothing bad happen to Mr. Hiss. Members of the Administration feared that an adverse verdict would prove that there was a great deal of foundation to all the reports of Communist infiltration into the government during the New Deal days. The fact that there was a great deal to them was shown vividly by the testimony of Julian Wadleigh. He admitted that he did give documents to Mr. Chambers. I think the value of his testimony was to take the charges out of the realm of fantasy and to convince the jurors that some Americans—for whatever motive—did choose to betray their country and betray it knowingly."

Reverting to his criticism of Judge Kaufman, Mr. Nixon said: "This was a case of utmost im-

portance to the American people. The issue was rightly defined as depending on the jury's opinion of the credibility of the two main figures—and on the corroboration or lack of corroboration offered. Judge Kaufman allowed Mr. Strycker (Lloyd Paul Strycker, defense counsel) to question Mr. Chambers at great length on the suicide of his brother—as if that had anything to do with the case on trial. He refused to let Prosecutor Murphy ask Mr. Hiss a single question about any similar episode in his family. I think the average layman wished that the judge had let the truth—the whole truth and nothing but the truth—come out so that the jury could have had every single solitary fact before it."

A little later, Mr. Nixon said: "You have read the reports that the jury foreman told his wife, very early in the trial, that he felt sympathetic to Mr. Hiss. I have no way of knowing whether that is true or not, but when the matter was called to the attention of the judge early in the trial, I think he should have taken steps to learn whether there was any truth to it. And he should not have allowed the juror to continue sitting if there was any possible chance the report was true."

Rep. Veldé Joins Attack on Judge In Hiss Trial

Former F. B. I. Man Cites 6 Examples of Alleged Bias Shown by Kaufman

By David McConnell

WASHINGTON, July 10.—A new blast at the conduct of Judge Samuel H. Kaufman during the trial of Alger Hiss came today when Representative Harold H. Veldé, Republican, of Illinois, declared that the judge's actions "bordered on misconduct."

The Hiss jury was discharged Friday after it reported itself hopelessly deadlocked 3 to 4 for conviction of the former State Department employee. Representative Veldé is a former judge and once was a Federal Bureau of Investigation agent. He is a member of the House Committee on Un-American Activities.

Mr. Veldé said in a prepared statement that Judge Kaufman by his rulings and actions "demonstrated a marked bias for the defense." He asserted that from reports of qualified observers present in the courtroom during the perjury trial in New York City the "most biased acts of the judge cannot be discovered in the record."

"His sarcastic and scornful voice employed when addressing lay government witnesses, and his impatient gesturing, chair-whirring

and head movements indicating disbelief of their testimony. Do not, of course, show in the record, yet they are common knowledge and were the talk of New York during the trial," he said. "On the other hand, Judge Kaufman's gentle, even friendly regard for Alger Hiss and all witnesses who testified in his behalf was in shocking contrast to his treatment of prosecution witnesses."

In New York Judge Kaufman said he had not seen Representative Veldé's "bill of particulars," but added: "I have no comment other than the record speaks for itself."

Representative Veldé was one of four members of the House committee who yesterday announced they favored returning to their investigation of Mr. Hiss and expanding the inquiry to a study of the conduct of Judge Kaufman. He was joined by Representatives Richard M. Nixon, of California, and Francis Case, of South Dakota, both Republicans, and Morgan M. Kousser, Democrat, of Missouri.

Discussing what he called "gross impropriety" on the part of the Federal Court judge, Representative Veldé said Judge Kaufman "went to great lengths to lean down from the bench and shake hands with" Associate Justice Stanley F. Reed and Felix Frankfurter, of the Supreme Court, when they appeared as character witnesses for Mr. Hiss. He said the act committed before the jury "could only be prejudicial to the prosecution and helpful to Hiss."

"It is obvious to me that inquiry into the conduct of Judge Kaufman in this trial cannot be sidestepped," he said. "Nor can it be allayed by such statements as the one issued yesterday by Robert P. Patterson."

Sees Rebuke to Congress

Mr. Veldé described Mr. Patterson, former Secretary of War, as one of the original endorsers of Judge Kaufman's candidacy for a judgeship. He interpreted Mr. Patterson's statement that the jurist's conduct had "struck me as eminently fair" as an "attempt to rebuke members of Congress who see fit to raise questions as to Judge Kaufman's lack of judicial conduct." In this respect, he said the Constitution "specifically imposes on members of Congress" the burden of surveillance on the conduct of Federal jurists.

Representative Veldé noted "six flagrant examples," described by him as a "mere half-dozen although the record abounds with unnumbered rulings favorable to Hiss," in his statement.

They are:

1. Mr. Alger Hiss claimed that he had known Whittaker Chambers only as 'George Crocker.' Chambers testified he had not used the name and that Hiss had known him only as 'Carl.' When Mrs. Chambers was on the stand, Judge Kaufman injected himself into her examination and informed the courtroom and the jury that Chambers had testified that he had used the name of 'Crocker.' Despite what 'The New York Times' called a "gasp" from the courtroom and cries of 'oh, no,' the judge allowed his unwarranted perversion of the testimony to remain in the record, damaging to the prosecution and helpful to Hiss though it was.

2. Judge Kaufman permitted parts of the grand jury record, containing Hiss testimony, to be turned over to the Hiss counsel, despite heated protest from the prosecution that grand jury records are secret.

Notes to Psychiatrist

3. Judge Kaufman permitted a psychiatrist retained by Alger Hiss, one Dr. Singer, to sit in the courtroom in a prominent spot as a prospective defense witness, and take notes on the behavior of

Whittaker Chambers, especially on his mental condition. When the prosecution protested in the strongest terms, the judge in his chambers ruled that Dr. Singer would not be allowed to testify. However, on returning to the courtroom, the judge permitted Dr. Singer to take the stand and to swear, "although in all other instances where he barred a witness, he refused to let him reach the witness stand. Next Judge Kaufman allowed the defense counsel to address perhaps the most remarkable question in legal history to Dr. Singer. The supposed question was forty-five minutes in length and actually amounted to an illegal mid-trial summation of every charge and fact that the defense had mustered against the credibility of Whittaker Chambers, the government's chief witness. Then Judge Kaufman formally ruled that Dr. Singer could not testify and ordered the 'question' stricken. But, as Prosecutor Murphy cried, in a raging protest against this most undecorous judicial conduct, the 'damage had already been done.'

4. Although Judge Kaufman allowed the Hiss counsel to question Whittaker Chambers about a suicide in his immediate family, the judge refused the same privilege to the prosecution to question Hiss about two suicides in his immediate family, despite vigorous protests from the prosecution against such obvious bias.

Answer Forbidden

5. When Chambers was asked how he had first met Alger Hiss, he testified that he had been introduced to him by Harold Ware and J. Peter. When the prosecution asked for further identification of these two men, Judge Kaufman refused to allow an answer. Both were known Communist operators of Washington spy rings, but the jury was never permitted by Judge Kaufman to know more about them two men than their bare names, a ruling highly favorable to Hiss.

6. On the third day of the twenty-six-day trial, information reached the prosecution that the wife of the jury foreman Robert James had stated her husband believed Alger Hiss innocent and would use his influence to convey this to the other jurors. Three days later additional information was received, and this too was brought to the attention of the judge. Both reports originated with the F. B. I. Prosecutor Murphy, meeting in the judge's chambers with the defense counsel, suggested that the foreman be removed and an alternate juror who had been present for six days, take his place. Judge Kaufman, after hearing a defense objection, declined to act, and, as was expected, Foreman James laid out to the very end the impartiality of Hiss, causing a deadlock of the jury that stood 3 to 3 until sunrise when finally discharged."

2 Big Color Sections + Ho

CONGRESS LEA PROBE OF HISS

Kaufman Call

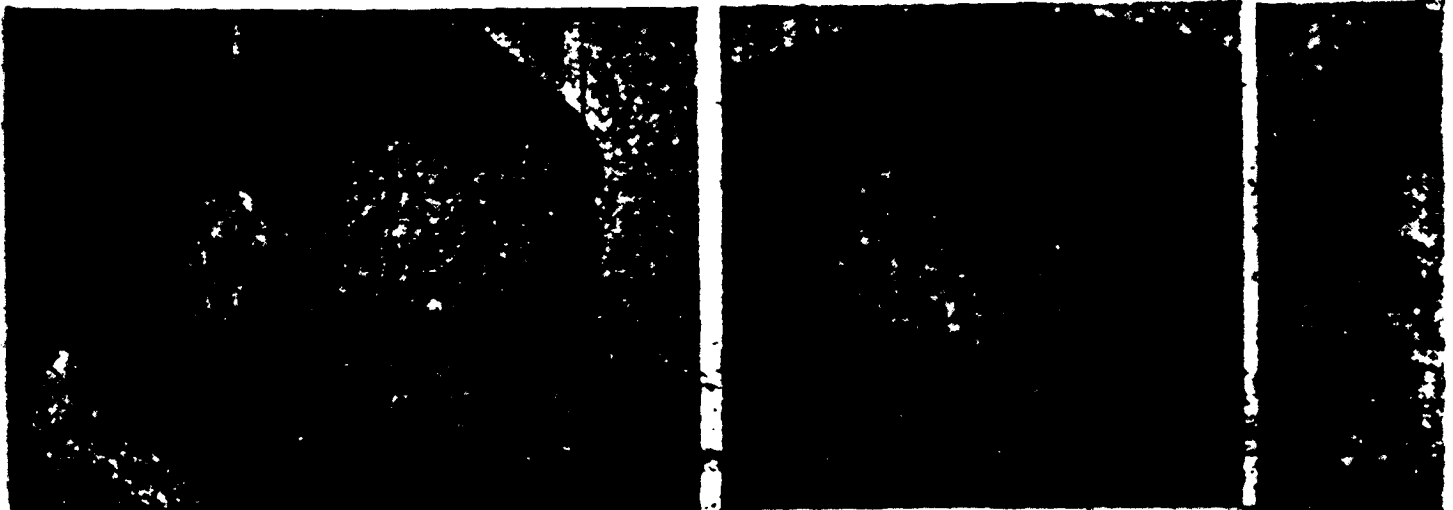
10
CENTS

NEW YORK
Journal American

**NIGHT
EDITION**

This Paper is the Official Paper of the United States and Republics.

No. 22,427—DAILY SATURDAY, JULY 9, 1949



DERS DEMAND TRIAL JUDGE

ed Prejudiced

B to 4 Jury Deadlock Cited by Legislators



KAUFMAN
Fugitive
in this case

FURBER JAMES
Fugitive of this case
in this case

MR. and MRS. ALGER HISS
The Hiss Case
Trial on Perjury Charges

By HOWARD BUSHNORE

A Congressional probe was demanded today into the entire Alger Hiss perjury trial and the conduct of presiding Judge Samuel H. Kaufman.

The N. Y. Journal-American learned that the Senate Judiciary Committee has been closely observing Kaufman's conduct of the case with a view to possible impeachment proceedings.

Leaders in both the House and Senate today sharply criticized Kaufman's handling of the trial which ended last night with a deadlocked jury, eight of whom held out from the first for Hiss' conviction.

Jurors Face Subpoena

In view of statements made by members of this jury, the possibility that individual jurors might be called as witnesses by at least one House committee is so learned.

Sen. Ferguson (R-Mich.), member of the Senate Judiciary Committee, declared that although he had no personal comment, "he had received "considerable complaint about the trial from people connected with it."

Other legislators were more outspoken, and charged Kaufman with "prejudice." These Congressmen criticized the judge for refusing to permit some Government witnesses to testify, including the former wife of Communist Gerhard Eisler.

Urges Immediate Probe

A demand was made by Rep. Francis Case (R-N. D.) that the House Un-American Activities Committee hear the unsworn witnesses in secret session and then release their testimony when the Hiss case is finally settled.

"I believe a full investigation should immediately be made of the fitness of Judge Kaufman to serve on the bench in view of his conduct during the trial," declared Rep. Nixon (R-Calif.).

"Although the jury failed to reach a verdict, eight

Other stories and photos on Page 3 and 4

Jurors voted to convict Hiss despite the open prejudice of Kaufman throughout the case.

U. S. Attorney McGobey said today he will move to get re-trial of the Hiss case on the calendar as soon as there is a Federal judge available.

"The House Un-American Activities Committee, of which I am a member, will discuss the serious question of Kaufman's refusing to investigate the foreman of the jury who sat for six weeks during the trial despite Government protests that the foreman had expressed outside opinions of Hiss' innocence," Hiss declared.

GENAC EXECUTIVE

(The N. Y. Journal-American, in an exclusive story by Louis "Gould" yesterday revealed that the prosecution on June 6 told Kaufman that information regarding the bias of a juror had come into the hands of the prosecutor, and that Kaufman had refused to disqualify the juror.

(Court records show that the juror was the foreman, Robert E. Jones, 1207 Madison ave., an executive of the General Ho-

ney Acceptance Corp., 200 Broadway.

(Other members of the jury said Jones was one of the few who held out for acquittal of Hiss while the majority were adamant for conviction.)

Rep. Brown (R-Ohio) cited Hiss' comments on the trial, and said:

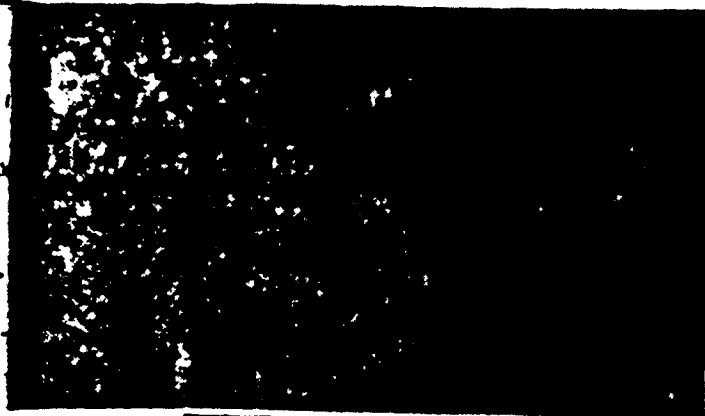
WARRANT COST.

"I am impressed by the fact that the jury, although unable to reach the unanimous verdict required by law, reportedly stood eight to four for conviction of Alger Hiss as a perjurer in connection with the espionage case which obviously penetrated the highest levels of the State Department.

"The cost should be opened by the Government in carrying out

Continued on Page 4, Column 2.

"Hiss Case for Court Review" in the "New York Daily Mirror" and "New York Daily Worker" with Sunday's "Hiss Case" in the "New York Daily Worker" and "New York Daily Mirror".



WHITTAKER CHAMBERS
News News His Jury Failed to Agree
By Whittaker



MRS. HELEN G. SWEATT
Criticizes Foreman
Special-Feature Photo by Sam Brown



JUDGE S. I.
Focus His
Special-Feature Photo

Demand Congress Probe Kaufman's Actions

By HOWARD BUSHMORE
Continued from First Page

Every aspect of this proven Communist spy plot which was known to have existed during the vital pre-war days, and possibly right through the war up to now."

Rep. Case, another of the House spy probes, said "one of the disturbing aspects of the Hiss trial was the refusal of Judge Kaufman to allow certain witnesses for the prosecution to testify."

"Among these was Hedda Gumpert Manning, the former wife of Gerhart Eisler, the Com-

munist agent who recently fled the country.

"Mrs. Manning was understood to be ready to testify as to her knowledge of Alger Hiss' connections with the spy apparatus in 1934.

RED PENETRATION.

"Congress is not primarily concerned in the alleged perjury as such. But it is vitally important to the country to know the extent of Communist penetration into the government and the efforts to conceal it.

"So, I intend to ask the House Committee on Un-American Ac-

tivities to call any such witnesses and examine them in executive session under oath, the record not to be made public until such time as final disposition is made of the Hiss case."

Nixon expressed extreme interest in the fact that Kaufman had refused to disqualify James after his alleged bias was brought to the attention of the court, and indicated that members of the jury might be subpoenaed to appear before the House committee.

When informed that Mrs. Helen G. Swett, a juror who voted for conviction, declared after the trial that "the other three who voted for Hiss might have changed their minds if it hadn't been for James," Nixon declared:

"Mrs. Swett's statement, if corroborated by other jurors, is of great interest to our contemplated investigation. I would very much like to talk to her at an early date."

Referring to Kaufman, Nixon added:

"His prejudice for the defense and against the prosecution was so obvious and apparent that the jury's 8-4 vote for conviction came frankly as a surprise to me.

TO PRESENT FACTS.

"It is my intention—and I know that this intention is shared by a number of my colleagues—that the full facts shall be presented in due time."

Nixon also called for a probe by the Senate and House Judiciary Committees of Judge Kaufman, who assigned himself to the case on May 23.

Hiss, the 44-year-old New Dealer who was a confidant of the late President Roosevelt, had "no comment" on the outcome of the case, aside from the fact that he and his wife plan a trip to Baltimore. From there they will go to Peacham, Vt., where they will spend the Summer.

Refusal of eight jurors to believe Hiss' denials of government accusations that he had at one time been a member of a Communist spy group left the tall, lanky defendant sullen and speechless when Kaufman discharged the jury at 9:01 last night.

ORDERED BACK TWICE.

A clear-cut verdict of acquittal was essential to Hiss for a moral victory over his arch enemy and one-time friend Whittaker Chambers, former courier for a Soviet spy ring that operated within the New Deal.

Twice during the 28 hours they were out of the courtroom, the jury had been ordered back for further deliberations by Kaufman who grew obviously angry when the tense jury twice reported they were deadlocked.

Throughout the Government's case, Assistant U. S. Attorney Thomas P. Murphy had thundered to the jury:

"If you don't believe Chambers, then we have no case."

Hiss, calling Chambers a liar and summoning Supreme Court Justices Frankfurter and Reed as character witnesses, had staked his defense on the theory that the same jury would not believe Chambers.

8 BELIEVED CHAMBERS.

Eight of them did believe Chambers, a poll of the discharged jury showed. Only four regarded Hiss as the truthful member of the two-man deal of personalities and ideologies that turned the trial into a dramatic political battleground.

The victory, though not in the legal sense, went to Chambers,

no statement seems necessary."

Murphy, whose brilliant summation on the last day of the trial was "the turning point," according to several jurors who voted for Hiss's conviction, also said before he left for a Fire Island vacation:

"The way the jury stood, eight to four, convinces me that righteousness was on the side of the Government. Don't forget, it was two to one."

McGohey immediately rewarded Murphy by promising that "the case will be put on the calendar for retrial at once and Murphy will be the prosecuting attorney."

NEXT TRIAL IN OCT.

Due to a crowded docket and the scarcity of judges, the trial probably will not take place until October. It was considered highly unlikely that Kaufman would again be assigned or assign himself to the case.

The jury's discharge brought the first series of "no comments" from Hiss as he sat motionless, almost sullen with his wife, Frieda.

Defense Attorney Lloyd Paul Stryker went with his client into the defense quarters adjoining the courtroom and emerged 20 minutes later with the Hisses saying:

"No comment at all—to nobody."

As the Hiss entered a waiting car, a voice boomed out from a crowd of spectators:

"Sleep well—we'll get you next time."

The scene in the courtroom was tense when the jury announced after more than 28 hours it had found it "impossible" to reach a verdict.

RESUME DELIBERATIONS.

After spending Thursday night in a hotel, the jury resumed deliberations at 9:30 a. m. yesterday and at 3:30 p. m. reported to Kaufman that it found itself deadlocked.

Warning them of their responsibilities as jurors, the judge sent the jury back for further deliberations. Again at

5 p. m. the jury reported a deadlock, only to be sent back into the jury room by Kaufman for a second time.

Finally at 9 p. m. the jury sent out a note saying a verdict was impossible and Kaufman discharged them.

From interviews with individual jurors it was learned that the four longhand summaries of State Department documents, allegedly in Hiss' handwriting and 49 other copies and originals of Government papers failed to convince the four dissenting jurors that Chambers was telling the truth when he said Hiss had supplied him with those documents in 1933.

MAJORITY SUSTAIN.

However, the majority of eight jurors in their deliberations apparently sustained the charge of the Federal grand jury which in-

Continued on Page 16, Column 2.

Hiss Trial Faces Congress Probe

By HOWARD BUSHMORE
Continued from Page 4.

dicted Hiss last December on two counts of perjury.

The two counts of the indictment were:

1.—That Hiss lied when he told the grand jury that he never gave Chambers State Department documents.

2.—That Hiss lied when he said he never saw Chambers after Jan. 1, 1937.

After Chambers, the prosecution's star witness, had named Hiss as a Communist who promised Col. Boris Bykov, Soviet OGPU agent, to supply Government secrets, the defendant took the stand last month and denied these charges.

Hiss's defense had been elaborately prepared and was headed

by Stryker. Cost to Hiss for the defense which started months ago was estimated at nearly \$60,000.

WOULD DEFEND HISS.

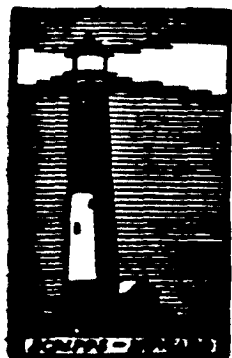
Stryker was asked if "he would defend Hiss again" and Stryker said:

"I'd defend this fellow forever, if he'd ask me to."

Kaufman would not comment except to say:

"The record of the trial speaks for itself. I have nothing more to say than that."

During the trial, a total of 73 witnesses appeared, 43 for the Government and 30 for the defense. The Government introduced 234 exhibits and the defense 23. According to an unofficial estimate, 2,851 pages of testimony were transcribed, representing roughly 570,000 words.



New York Wor

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Local Forecast: Sunny today. Fair tomorrow. Fair & warm Wednesday.

VOL. 82—NO. 7—IN TWO SECTIONS—SECTION ONE

NEW YORK, N. Y.

PROBE OF HISS TRIAL BIAS CHAR

Jury Names Convict As Met Tenor's Killer

Atlanta Ties Fatal Bullet To Suspect

A South Carolina convict was named by an Atlanta coroner's jury as the killer of John Garris, handsome Metropolitan Opera Company tenor, who was shot to death in a squalid Atlanta alley while on tour with the New York opera troupe.

The convict is Grover (Tojo) Pulley, whose return to Atlanta to face charges in the slaying was recommended by the jury.

Surprise Break

The surprise break in the case came at midnight as a climax to the case, which had been dormant since the jury viewed the singer's bullet-punctured body the morning after the death.

Mr. Garris, who was said by critics to be well on the way to stardom, was found murdered last April 21. He shared an apartment with his roommate, a dramatic coach, at 242 W. 57th St.

The five coroner's jurors heard Dr. Herman Jones, Fulton County crime expert, testify that "without a question or doubt" a nine-millimeter Belgian automatic found



Heard in Washington Clashes Upset World Aid Plan

A Weekly Sit-up by the Washington Staff of the Scripps-Howard Newspapers.

WASHINGTON, July 9.—President Truman's bold new program for underdeveloped areas is in a mess.

U.N. Economic and Social Council was to have started discussing it Thursday. We've asked them to take it off

the agenda. So far, no answer. But if other countries insist on talking about it now, they're likely to get a tongue-lashing from U.S. representatives. We don't like their attitude.

For one thing, State Department thinks U.N. has failed to work up co-ordinated program, as requested. Food and Agriculture Organization, World Health Organization, World Bank, International Labor Organization, International Trade Organization,

haven't been able to agree. We insist they do.

Also, U.S. thinks other countries expect too much from us.

Within 24 hours after Mr. Truman had unveiled program in inaugural address, most embassies in Washington had cables from home asking Co-

(Continued on Page Two).

Luciano Jailed Again, to Face Drug Captive

Rome Police Plan To Confront Him With Vincent Trupia

By the United Press. ROME, July 9.—Police plan to confront former New York king Charles (Lucky) Luciano with a suspected agent of a multi-million dollar narcotics smuggling ring today.

They want to find out what Luciano has any connection with the ring, which is believed to have operatives in Italy, France and the United States. American authorities believe he may be leader of the ring.

Luciano was taken into custody by Rome police yesterday and locked up overnight.

Three Associates Jailed

Jailed up with him were three associates, Ralph Lagoert, who tried with Luciano in New York on white slavery charges, and Francesco Catalano and Adolfo Maffione, otherwise unidentified.

All four will be brought face to face with an Italian-American known as Vincent Trupia of New York, who was arrested weeks ago as he was about to leave for the United States with \$250,000 worth of cocaine.

Nothing so far has indicated that there is any connection between Luciano and Trupia, but want to bring them together.

Czech Reds Seize

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... Tomorrow. Weather Forecast on page 2.

... SATURDAY, JULY 9, 1949

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Five Cents

JUDGE DEMANDED; TRIED IN CONGRESS

An Ordeal Ends



Speedy Retrial Of Perjury Case Pledged by U.S.

An immediate investigation of the conduct of Federal Judge Samuel H. Kaufman while presiding over the Alger Hiss trial was demanded today by Rep. Richard Nixon (R., Calif.) as the U.S. government pledged to retry the former State Department official as quickly as possible.

These developments followed last night's discharge of the jury after it had become hopelessly deadlocked. The jurors were split 8 to 4 in favor of convicting Mr. Hiss on charges he lied when he denied having turned over confidential documents to Whittaker Chambers, then a Soviet espionage agent, in 1938.

A demand that Mr. Hiss be brought to trial "before an unbiased federal judge of the highest integrity and with prosecutors whose abilities are beyond question" was made by Rep. Clarence Brown (R., Ohio).

May Reopen Probe.

Meanwhile, the possibility the House Un-American Activities Committee might reopen its own investigation of the Hiss-Chambers controversy was raised by Rep. Francis Case (R., S. D.). Mr. Case said he would ask the committee to hear in secret sessions government witnesses who were refused permission to testify during the Hiss trial by Judge Kaufman.

Among these witnesses, Mr. Case said, was Mrs. Hilde Manning, former wife of Gerhart Eisler, the fugitive Communist. Mrs. Manning had been prepared to testify

according to other jurors, been insistent on acquitting Mr. Hiss.

The government's position was made emphatically clear by Attorney General Tom Clark in Washington.

"The Department of Justice will vigorously prosecute the Hiss case again as quickly as the conduct of the court will permit," Mr. Clark said.

Not Before October.

However, indications were that the trial could not begin before October, because of the scarcity of federal judges. It was this scarcity which led to the postponement Thursday of the New York conspiracy trial of Judith Coplan and Valentin Gubstchov.

That the case will be retried by Mr. Murphy, the genial 6-foot-4 prosecutor who had stepped out of character Thursday to call Mr. Hiss a "wandering traitor, a Judas and a Soviet agent," was announced by U.S. Attorney

Mr. and Mrs. Alger Hiss leaving the Federal Court Building here after his trial ended in a hung jury.

Jolted Hiss Silent, Wife Near Tears

Alger Hiss never had a chance to read the statement he had written through the long hours of waiting yesterday. It was to have been his statement to the press, following his acquittal.

But the acquittal never came. As the jury was discharged the handsome 44-year-old former government official, who had been called a "traitor," refused to discuss the statement.

"Not now," he pleaded.

By his side was his slight, modestly dressed wife, Fricilla. Her face red, she seemed near tears as her husband clasped her hand. She said nothing to reporters who asked questions at her.

A Thin Smile.

Mr. Hiss, however, managed a thin smile at the end of his 29-hour ordeal. "Please," he said, almost in desperation, as reporters asked questions at him.

Mr. Hiss had not been as reticent earlier in the day when he had expected to visit his 81-year-old mother in Baltimore, before going to Peacham, Vt., for

the summer. And he told of his teaching plans at a Quaker school.

For Mr. Hiss had confidently expected an acquittal. The outcome had been a harsh blow, one still leaving him under the cloud of suspicion that arose last summer when Whittaker Chambers told his story.

As Mr. Hiss waited for the crowd to clear out of the courtroom, he whispered to his wife, Lloyd Paul Stryker, his lawyer, walked over to prosecutor Thomas F. Murphy. They shook hands. Soon after the Hisses made for the elevator.

Flashbulbs Pop.

Outside the courthouse they ran into a throng of photographers and curious. Flashbulbs lit up the usually deserted Foley Sq. Someone in the crowd shouted:

"Better luck next time, Alger."

"Sleep well," someone else yelled. "We'll get you next time."

Mr. Hiss grimaced and, his wife by his side, he forced his way through the pressing throng, making his way to a red sedan. The car sped away.

A Real Cat and Dog Fight,' Says Young Juror in Hiss Case

The most famous room in the nation the last two days was Room 101, U.S. Courthouse, Foley Square. There 10 men and two women, comprising the Alger Hiss jury, attempted to reach a verdict in one of the most dramatic trials ever.

What went on in Room 101? It was a real cat and dog fight," said juror 3—James P. Sarahan, a youthful accountant, 2650 Bainbridge Ave., E. Mr. Sarahan, employed by the Overseas Tankship Corp., 351 Fifth St., had voted for a conviction.

The eight of us were pounding the hall out of the other four since a few of them sitting there, everybody took a whack at them. No good.

"We were all hammering away at them, till I was up to here," he continued, grabbing his neck, trying to sway them. But we did use."

Tempers Short.

Tempers flared to such an extent that two jurors snapped at each other while entering the courtroom during their lengthy deliberations. The bitterness re-

volvied around the credibility of Whittaker Chambers.

According to Mrs. Helen W. Sweatt, Juror 6, a real estate broker of 611 W. 156th St., the four holdout jurors just couldn't believe Mr. Chambers was telling the truth. Mrs. Sweatt said she voted for a conviction believing that Mrs. Chambers was telling the truth.

"I just can't believe that Mrs. Chambers was the type of person who would lie," Mrs. Sweatt said.

Mrs. Sweatt also paid tribute to Thomas F. Murphy, the prosecutor, for his "eloquent" summation of the government's case.

"Most of the jury believe it was the real turning point of the case," she said. In his summation Mr. Murphy had blasted Mr. Hiss as a traitor.

Typewriter Key.

Also of importance in the position taken by the holdouts, she said, was the fact they could not get themselves to believe that the Hisses had typed the documents.

The typewriter, which was in the jury room, was tested by most of the jurors.

Juror 9, Allen M. Blake of 1670

Parkchester Rd., E., production manager for Cutler Hammer Co., 420 Southern Blvd., E., said the "presence of two Supreme Court justices was a grave impropriety. They should not have appeared on the witness stand."

He referred to Justices Felix Frankfurter and Stanley Reed who appeared as character witnesses for Mr. Hiss.

Hiss Backers Silent.

None of the four who sided with Mr. Hiss would comment.

Hubert E. James, the silver-haired foreman, a junior executive of the General Motors Acceptance Corp., rushed off to his home at 1067 Madison Ave. without realizing the storm he had created earlier in the day.

A transcript, released by Judge Kaufman, showed Mr. James had been investigated shortly after the trial started because the FBI received a report he was sympathetic to Mr. Hiss. The government asked for his removal but Judge Kaufman refused to do anything about it.

Mr. James had been most insistent about Mr. Hiss' innocence, according to Mrs. Sweatt.

Washington the allegedly discussed common spy problems with Mr. Hiss.

Mr. Nixon, a member of the House Un-American Activities Committee, in demanding a probe of Judge Kaufman's conduct, charged that he had been prejudiced in favor of Mr. Hiss. "His prejudice was so obvious and apparent that the jury's 8 to 4 vote for conviction came frankly as a surprise to me," Mr. Nixon said.

"When the full facts of the conduct of this trial are laid before the nation I believe the people will be shocked. It is my intention and I know this intention is shared by a number of my colleagues that the full facts shall be presented in due time."

Mr. Nixon, who nearly a year ago had pressed the original charges made against Mr. Hiss by Mr. Chambers, said object of the proposed investigation would be to "determine the fitness of Judge Kaufman to serve on the bench."

Refused to Oust Juror

Mr. Nixon told the World-Telegram such a probe would look into Judge Kaufman's refusal to oust a juror who the government said had been reported to have voiced pro-Hiss opinions at the start of the trial in alleged violation of an oath to keep an open mind and not discuss the case with anyone.

The trial transcript shows that Thomas F. Murphy, chief government prosecutor, had in the judge's chambers asked for the removal of the jury foreman, Hubert Edgar James, of 1067 Madison Ave., but that Judge Kaufman had denied the request.

Mr. James, a junior executive with the General Motors Acceptance Corp., 1775 Broadway, had,

Mr. Murphy was bubbling over with enthusiasm over the result.

"The way the jury stood," he said, "eight to four, convinced me that righteousness was on the side of the government. Don't forget, it was two to one."

Hiss Disappointed.

The "no decision" was a bitter disappointment to Mr. Hiss, who had hoped by an acquittal to give the lie to Mr. Chambers' charges that he was involved in a spy espionage.

And while it was an obvious vindication for Mr. Chambers, the former center editor of the magazine told the World-Telegram he wouldn't be human if he wasn't pleased at the outcome.

"In view of the decision I feel it is not necessary to make any statement," Mr. Chambers said. "However, I am prepared to go through another trial."

It had been a long wait for both men in a drama which began last summer when Mr. Chambers testified before the House Un-American Activities Committee and named Mr. Hiss, among others, as a member of a Communist underground group in prewar Washington.

Mr. Hiss denied the charges, but his trial suit against Mr. Chambers led Mr. Chambers to produce the now-celebrated "pumpkin papers" last November. These papers, copies and originals of State Department documents, were the basis on which a grand

(Continued on Page Two).

Chinese Reds Free U.S. Vice Consul

By the Associated Press.

SHANGHAI, July 9.—The Communists released U.S. Vice Consul William E. Olive today. He was arrested Wednesday in a minor traffic incident and beaten by police.

Immediately after his release, Mr. Olive was escorted with Consul General John Cabot. Mr. Olive was not permitted to comment on his four days in jail.

Mr. Cabot would not say whether Mr. Olive had been injured by the Red police, but the Vice Consul seemed to bear no marks of violence.

The Weather

(Official United States Forecast.)

New York and Metropolitan Area: Sunny today, highest temperature about 83. Fair tonight with lowest temperature in upper 60s. Fair with increase in humidity tomorrow, highest temperature in middle 80s.

New Jersey: Mostly sunny, temperature rising to middle 80s in the interior and around 70 on the coast today. Fair tonight. Tomorrow partly cloudy, warm and humid.

TODAY'S READINGS

Temp	Hum	Wind	Dir	Sea
83	65	10	SE	1-2
82	64	10	SE	1-2
81	63	10	SE	1-2
80	62	10	SE	1-2
79	61	10	SE	1-2
78	60	10	SE	1-2
77	59	10	SE	1-2
76	58	10	SE	1-2
75	57	10	SE	1-2
74	56	10	SE	1-2
73	55	10	SE	1-2
72	54	10	SE	1-2
71	53	10	SE	1-2
70	52	10	SE	1-2

Year ago: High 82, low 62.

SUNNY BREEZY WIND.

AM PM

High—78 83 Low—72 76

'I Am Destroying Myself for Cause', Chambers Feels

By NICHOLAS BLATCHFORD,
Scraps-Howard Staff Writer.

WASHINGTON, July 9.—Whittaker Chambers believes he is destroying himself for a cause.

The man on whom the government's whole case against Alger Hiss rested told me:

"I am very reluctantly and grudging, step by step, destroying myself so that this nation and the faith by which it lives may continue to exist.

"It is not a role I would have chosen for myself. I am merely doing the job, as I see it."

It was this motive—to expose Communism in America—he said, which prompted him to testify against his former friend, Mr. Hiss.

The New York jury which heard the case could not reach a verdict after 14 hours and 44 minutes deliberation. It reported it was deadlocked.

Tells of His Worries.

Mr. Chambers talked quietly and slowly at his farm near Westminster, Md., 60 miles from Washington. He fussed with his pipe, drawing on it methodically, his eyes on the rolling pastureland outside.

He talked as a man who has committed himself—irrevocably—to a certain course of action from which he would not withdraw even if he could.

"I wouldn't have you suppose that I don't worry," he said. "I have to worry about exposing my wife to such a shocking experience as her pretrial questioning and her cross-examination at the trial. I have to worry about the impact on my children.

"For myself, I hardly need to worry at all."

"I have a task to do and I am going about it in my own crude way," he said sadly. "Someone, some way, had to come along and lift off the lid. Someone had to say: 'This is what's inside.'"

'Time Is on My Side.'

"The man who lifts the lid has to testify just as much against himself as against anybody else. I just seem to be able to stand the ordeal.

"I did what I had to do and I'll do in the future what I'll have to do. And time is on my side. It may take a long time, but time will bring out the truth.

"I can't say where it will end," he said. "I have no plans other than to go on living. I'm running a dairy farm here. The rest is in the hands of the gods."

When he spoke of Mr. Hiss, his voice grew deliberate and some of the warmth went out of it.

"I think I said at the trial that I had a strictly neutral feeling about him," Mr. Chambers said.

"I guess that's probably as close as I can come to an evaluation."

He said that when he first knew Mr. Hiss he was "an ex-

traordinary dilemma—all of us. But no one has gotten to the roots of the question.

"A religious age would have no difficulty at all in understanding this story. The story is how—why—men become Communists, why they continue to be Communists and why some break and some go on.

Two Sets of Reasons.

"There are two sets of interacting reasons why I became a Communist. One is personal, one political.

"As an adolescent, I had watched with great interest and some horror the first world war. And as a young man in Europe, I saw at close hand the inflation in Germany and the occupation of the Rhineland. . . . the enormous battlefield graveyards and debris of a civilization in collapse.

"I believed that something should be done about it and that I should do something about it. I thought I found the answer in the tactical teachings of Lenin and others.

"Therefore, I became a Communist," he said.

"There was a personal reason, too. In every period of history there are numerous maladjusted intellectuals . . . thousands of such people. In my own case, the Communist theory offered me an explanation of why so many thinking people in our time are maladjusted.

"It offered me a course of action whereby I thought I might make life more suitable for myself and all other men. This combination of a definite force of action and a vision of the future is all but irresistible.

"Back from Europe, well shaken up by what I had seen, I went around hunting rather desperately for the diagnosis and source of treatment. . . .

"I read a pamphlet by Lenin on 'The Soviet at Work.' That filled the gap. It explained how you take power and how you exercise it. This was the answer I'd been searching for.

"So, I set about to find the Communist party of the United States which was very hard to find."

"Afterwards I had no moral scruples for whatever I did. No Communist would.

"There are two tremendous moves a man can make. Toward Communism and away from it. Both involve the same suffering.

"I have an acute feeling that time is running out."

Engaged



It looks like love—and it is. Pat Dillon and James A. Farley pictured last year at the recess of Monmouth Park, N. J., will be married. Mary C. Dillon of 1480 Fifth Ave. is making formal announcement over the week end of the betrothal of her daughter to the former Postmaster General and Mrs. James A. Farley of Waldorf-Astoria. No date has been set for the wedding.

Probe of Hiss Judge Demanded in Congress

(Continued from Page One)

Jury indicted Mr. Hiss on two counts last December.

Unable to Agree.

The trial, often postponed, began May 31 and ended at nine o'clock last night when the jury, which had listened to both Mr. Hiss and Mr. Chambers, reported it was unable to reach a verdict.

The jury had practically worn a path in the marble flooring of the 12th floor of the U.S. courthouse yesterday as it repeatedly left its jury room for the courtroom and returned.

Mr. McCreary announced Mr. Hiss would be continued in \$5000 and the now-famous Woodstock typewriter which the government contends was used by the Hiss to type copies of State Department documents for Mr. Chambers was impounded. The impoundment had the approval of the judge.

5 Ceremonies to Mar

Curbs Gain Senate Favor

Committee Speeds Action on Truman Intervention Bill

By the United Press.

WASHINGTON, July 9.—Influential Senate Labor Committee members said today they favor speedy action on legislation to end the 70-day-old Hawaiian longshoremen's strike.

Even members not committed to such legislation said they favor granting full consideration to a bill authorizing President Truman to intervene.

The committee is scheduled to meet in secret Monday to decide whether to hold hearings on the measure, which was introduced by Sen. William F. Knowland (R., Calif.).

More Plans Action

Sen. Wayne Morse (R., Oreg.), a member of the Senate committee and a sponsor of the Knowland bill, said he is prepared to urge swift committee approval of the measure.

Another Republican member of the committee, Sen. Alexander Smith (N. J.) expressed similar sentiments.

'Utter Nonsense'

"To leave Harry Bridges in charge there seems to me like utter nonsense," Sen. Smith said.

Mr. Bridges heads the International Longshoremen's and Warehousemen's Union (CIO), whose 3000 Hawaiian members went on strike May 1 to back up demands for a 22-cent hourly wage increase. The walkout has tied up the islands' economy.

Sen. Robert A. Taft (R., Ohio) indicated he, too, is concerned about the Hawaiian strike. He has pledged himself to consider any legislation to resolve the dispute.

By the Associated Press.

HONOLULU, July 9.—The strike on Hawaii's waterfront entered its 70th day today with the union offering to call it off if employers agree to abide by the findings of a Presidential board of inquiry.

The board is provided for in a bill introduced in Congress by Sen. William F. Knowland (R., Calif.). Employers oppose the bill. They say it amounts to arbitration, and they don't want third parties fixing wages.

Dulles Would Cut Europe Arms Fund

By the Associated Press.

WASHINGTON, July 9.—Sen. John Foster Dulles (R., N. Y.)



Little Marie-Christine Cheseret of Nogent-sur-Marna, France, operates her own little homemade rowboat, chiefly for the benefit of local baby goats and sheep, for which she provides water transport.

Why Sir Stafford Wears Lean and Hungry Look

By ANDREW TULLY, Scripps-Howard Staff Writer.

WASHINGTON, July 9.—If you think you've got troubles, take a look at Britain's Sir Stafford Cripps.

He's not only Chancellor of the Exchequer with nothing to ex- cept, but he's had a bellyache since he was a kid and hasn't eat anything but uncooked vegetables.

Around English saloons Sir Stafford is known as Misery Cripps because he sends all the country's booze to America. But you have to admit he was a prodigy. Why, at 22 he made a speech to the Royal Society on "the Critical Constants and Orthoboric Densities of Xenon," and at 40 he was making \$100,000 a year as a lawyer.

Kicked Out of Party.

You'd think he would have fallen all over capitalism, but not Sir Stafford. He joined the Labor party and became prime minister.

had to resign for telling budget secrets to the press.

Gives Away Income.

Sir Stafford looks something like Woodrow Wilson, only his clothes have that slept-in look. He's given away practically all that big dough he made as a youngster and still donates all his \$90,000-a-year salary, after living expenses, to charity. With that stomach of his, he has to stay out of pubs, but he manages a cigar once in a while. He and his wife live in a two-room flat that doesn't have a kitchen. They contend they don't need one.

Both of 'em look hungry, though.

Snyder, Cripps Push

Drink From Taps

Jersey Bank Is Dead at 8

Bloomfield Leads Also a Director of Fidelity Trust Hor

Special to the World-Telegram.

BLOOMFIELD, N. J., July 9.—Funeral arrangements were completed today for Allison D. Dodd, banker, civic leader, and president of a number of community organizations. Mr. Dodd died yesterday in his home at 207 E. 1st Ave.

Mr. Dodd was a director of Fidelity Trust Co., New York; president of the Bloomfield & Trust Co., chairman of a board of the Public & Wilson Co. of Newark, and chairman of the board of the Davy Co. of New York City.

He also was a director of American Insurance Co. and Mutual Benefit Insurance Co. of Newark; an officer of the C. & W. Co. of New York, and president of the Bloomfield Co. of N. J.

A native of Bloomfield, Mr. Dodd was a descendant of Daniel J. Dodd who came to Newark in 1666.

Active in civic affairs here, he was a director of the New Jersey Historical Society, treasurer of the director of Bloomfield College Seminary, a trustee of Mount Pleasant Hospital and a member of the board of National Missions of the Presbyterian Church in the U. S.

In 1940, he published a genealogy and history of the Daniel J. Dodd family in America in collaboration with the Rev. Joseph F. Fogarty, secretary of the New Jersey Historical Society.

Msgr. John J. O'Brien

Special to the World-Telegram.

YONKERS, July 9.—Funeral arrangements were being completed today for the Rt. Rev. Msgr. John J. O'Brien, 68, pastor of Our Lady of Mercy Roman Catholic Church here since 1932. Msgr. O'Brien formerly was at St. Joseph Seminary here and later assistant pastor of the Church of the Holy Spirit, Bronx, and St. Vincent's Hospital, Manhattan.

S. Willard Smith

Special to the World-Telegram.

BERNARDSVILLE, N. J., July 9.—Funeral arrangements were being completed today for S. Willard Smith, 77, former president of Childs Co., restaurant chain, who died at 200 Fifth Ave., New York City. Mr. Smith, who had been with Childs for 27 years before he retired in 1931, died yesterday in his home here.

Rodolphe E. Rufenacht

going chap."

'Closest Friend'

"We and our families get along the way people do in ordinary life," he said. "Talking about birds and people and houses and ordinary things. . . . He was the closest friend I had among those people." (He referred to the men he has accused of being part of a Communist group aiming at infiltrating the government in the 1930s.)

Mr. Chambers scoffed at reports that his relationship with Mr. Hiss had been more than an ordinary friendship, that it had been a deeply emotional thing.

"That's nonsense," he said. "Nothing could be more absurd." "It has never been easy to testify against him," he said quietly. "Or anybody else in the trial. He's only one of a dozen people involved in this, but he's the one who chose to brazen it out."

"This is a tremendous case," he said. "It involves the basic issues of our times. Unfortunately, it has become a clash of personalities. We are all in this his-

Woman, 70, Back Here By Aid of Congress

Mrs. Silvia Mapelli, 70, was back in America today, aided by a special act of Congress.

Mrs. Mapelli originally had come to the U.S. from a small Italian town in 1905. She became a citizen with her husband. But he, her son, and her grandson, all died in 1935 and Mrs. Mapelli returned to Italy to care for her aging father. He died in 1939, but she was unable to return here because of the war.

During the war, her home was bombed and she lost all her identification papers, including her American passport.

Relatives in America worked for her and last May President Truman signed a special bill making Mrs. Mapelli a citizen again.

She arrived at Idlewild Airport yesterday and was met by a niece from Denver, Colo., with whom she will live.

Shortly before noon the jury sent a note to Judge Kaufman declaring its inability to reach unanimity. The jury filed into the courtroom, half-filled with spectators and newspapermen.

Judge Kaufman, in a last-minute try, asked whether any juror would be served if the jury went to a hotel for the night and continued afresh tomorrow. The foreman, Hubert E. James, rose from his chair and said:

"I think I reflect the opinion of the jury, your honor, in saying, No."

'No Alternative'

"Well," Judge Kaufman replied, "there will be no alternative but to discharge the jury."

Twice before Judge Kaufman had ordered the jury to try to reach a verdict after Mr. James had indicated the difficulties involved. Tempers had flared behind the closed doors of the jury room when, from almost the beginning of the deliberations Thursday afternoon, eight jurors argued vainly with four others who were convinced of Mr. Hiss' innocence.

Following the jury's discharge

City Housing Progress

Progress in construction projects in Mayor William O'Dwyer's program of housing with each subsidy will be marked next week by five ceremonies, the New York City Housing Authority announced.

There will be three ceremonies Tuesday. At 10 a. m. at Eastchester Houses, 170th and Burke Ave. St., and at 10:30 a. m. at Pelham Parkway Houses, 240th and Waring Ave. St., both corner stone-laying ceremonies. At 3 p. m. there will be a ground-breaking ceremony for Colonial Park Houses, Harlem River Speedway north of the Polo Grounds.

Two ceremonies will be held Thursday: cornerstone-laying ceremonies at Glenwood Houses, Ralph Ave. and E. 10th St., City, at 10:30 a. m., and ground-breaking ceremonies for Parkview Houses, Linden Blvd. and Schenck Ave., City, at 11 a. m.



Heard in Washington



(Continued from Page One)

talk, wanting to get in line for funds. State Department then explained this was an "extraordinarily long-range program," would involve changes in political, economic and social institutions of many countries; that we'd go slow with cash. This caused astonished howls from other countries.

Here's a sample of scale on which they've been thinking—PAO survey says rest of the world needs investment of \$43,000,000,000 a year for next four years. National plans of 43 countries and 33 territories for next ten years, added together, call for \$161,000,000,000.

By contrast, Mr. Truman has asked Congress for only \$45,000,000, of which \$10,000,000 is for programs already functioning.

Non-Wallgren may get be chairman of National Security Resources Board.

We went cruising with Mr. Truman recently; rumor of a recess appointment for him popped up afterward. If he's named after Congress adjourns he can serve and draw salary until Congress meets again and acts.

If this is done, effort may be made to send nomination to a different committee, on the ground NSRB isn't strictly a military agency. A different committee might give favorable report.

Note: You can discount reports that former War Secretary Robert Patterson will head NSRB. White House says it would like to have him but he's turned it down.

Low rent public housing will get priority in government's new building program. Major reason: slum clearance requires rehousing of families moved from blighted areas. Most of them have no place to go without public housing.

Officials here predict 30,000 units will be under construction within next year.

Real estate lobby already has

served notice it will continue fight in cities against more public housing. Low requires city governments to approve location of new projects, so fight will be made on city councils and commissions.

Major strikes threaten on at least three fronts, but government pulse-takers are optimistic. There's a feeling big union leaders are shying away from strikes. Economic and political reasons, both.

The John L. Lewis three-day week plan is interpreted as meaning no nationwide coal shutdown is in the cards now.

United Auto Workers are negotiating with Ford under a strike threat with five days' notice. It's not expected to make a break before Aug. 1.

And, though steel strike is threatened for July 15, chances are a fact-finding board will be appointed giving time for settlement.

It's not the heat that's bothering Congress, it's the inconsistency.

Example: Everybody's talking economy; members threaten to order Mr. Truman to cut expenditures 5 to 10 per cent. Yet Senate Finance Committee has reported a bill to reduce wartime excise taxes, and House Republican leader is trying to get same bill to the floor. And House now has on calendar a \$1,000,000,000 flood control and rivers and harbors bill. Senate committee is planning to report \$100,000,000 bill for advance planning of public works.

You can bank on it that Mr. Truman will try to take a big

LIQUOR NOTICE

Notice is hereby given that whenever the law requires the State has been bound to the undersigned will buy or purchase under the Alcoholic Beverage Control Law in the presence of a Justice of the Peace, New York City, N. Y. Joseph Strauss Corporation, 211 West 10th Street, New York 11, N. Y.

head in next year's Congressional elections. His reversal of Missouri campaign was the payoff.

Feeling here is that President's going to have to do something to recoup his political losses in the session of Congress. Big question is whether he'll try to purge members of his own party who opposed program.

John Foster Dulles appointment has Republicans debating whether he'd be a strong candidate in November special election in his favor. His eminence in foreign affairs, activity in Federal Council of Churches. Against him: Fact that he's represented big corporations and foreign governments.

Also, New Yorkers have been looking for a dovetailed Catholic to balance party top-side. If Dulles doesn't go, it could "Wild Bill" Donovan. Democrats here hope it's Mr. Dulles. Think they'd have a walk-away.

Political Note: Eight-term Congressman Albert J. Engel (D-N.Y.) considers quitting the House run for GOP nomination at Governor. He's won national reputation as "watchdog" over waste spending.

Former Gen. Ed Dwyer of Georgia would like appointment Ambassador to Mexico. But White House seems unimpressed in placing career-man Walter Thompson who's there now.

Sen. William Langer isn't looking so good in the Senate these days. Mr. Truman appointed his nephew, Herman Ford of North Dakota, to \$15,000 a year as Honorary Secretary on Customs in New York.

NEXT FRIDAY: Don't "Heard Around City" weekly municipal roundup by members of the World Green Staff.

ANNOUNCEMENTS

Commercial and Public Notices - Last and Found Ads for this column Phone HARVARD 7-3211

DIAMOND THE CHEAPEST! DIAMONDS. You're bound to see the girls with one of the diamonds you advertised in the Used Car Directory at the Sports Page.

DIAMOND Marriage engagement ring 23 diamond covered bracelet watch chain gold band and lot diamond etc. Some must see! See 4244, World-Telegram.

DIAMOND engagement ring, 22, 2221, originally \$400. Absolute bargain!

PRUDENTIAL COLLATERAL CO., INC. 1139 Sixth Ave. (42nd St.) BR. 9-2377.

DIAMONDS FROM ESTATES 2744, Brilliant Gem, 2975, Brilliant \$1500. Friends guaranteed within 30 days. LOUIS BRONER, 60 NASSAU ST. BR. 9-2345.

PIANOS WANTED. CIRCLE 5-2323.

Can get you 1949 Hudson, 28 miles. Good \$200 up. See 4548 World-Telegram.

TO HOLMES CUSTOMERS

Normal operation resumed until at least Wednesday afternoon, July 13th. Business thereafter with variations. Continue to watch the columns.

HOLMES ELECTRIC PROTECTIVE CO.

THOR Motors. New models, see the price schedule, \$100. BR. 9-1761.

BALDWIN. Delivery other fine pianos, like new. Belmont, 20 E. 54th St.

REBECCY. Canal 75. From East-West. BR. 10-10. Several colors. Reduced to \$9.95. BR. 1101, 115 W. 20th St., G-A. BR. 9-1.

SIAMSE. Wilson, Best-Pain relieved, 20 weeks. BR-142. Schedule 5-2322.

LOST AND FOUND

WATCH. Silver, 14K, approx. between 12th St. and Park Ave. to 125th St. Ladies. Friday. Liberal reward. BR. 9-000. Ask for Harry.

World-Telegram

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tomorrow. Weather Forecast on page 2.

SATURDAY, JULY 9, 1949

Printed by World-Telegram
and Sun Co., New York, N. Y.

7TH SPORTS
FINAL

Baseball-Rugby

Five Cents

Russian Soldier

HISS JUDGE BIAS PROBE DEMANDED

Atlanta Names Convict as Met Tenor's Slayer

Crime Experts Tie
Fatal Bullet to Gun
Found on Suspect

A South Carolina convict was named by an Atlanta coroner's jury as the killer of John Garria, handsome Metropolitan Opera Company tenor, who was shot in a squalid Atlanta alley while on tour with the New York opera troupe.

The convict is Grever (Tajo) Pulley, whose return to Atlanta to face charges in the slaying was recommended by the jury.

Surprise Break

The surprise break in the case came at midnight as a climax to the case, which had been dormant since the jury viewed the singer's bullet-punctured body the morning after the death.

Fulton County Solicitor Paul Webb said he would have to study the jury's official report in

Bette Runs Fever



Congressmen Assail Fitness Of Kaufman

Call Him Prejudiced
In Defendant's Favor;
Fall Retrial Planned

By VICTOR LASKY,
World-Telegram Staff Writer.

An immediate investigation of the conduct of Federal Judge Samuel H. Kaufman while presiding over the Alger Hiss trial was demanded today by Rep. Richard Nixon (R., Cal.), as the U.S. government pledged to retry the former State Department official as quickly as possible.

Judge Kaufman told the World-Telegram today:

"All I can say is that the defendant's guilt was

Learn whether there was sufficient evidence to place before the grand jury last week.

It was learned that the coroner's jury was told by an investigator that no evidence had been uncovered to link the killing with any member of the Metropolitan company.

Expert Testifies

Mr. Garris, who was said by critics to be well on the way to stardom, was found murdered last April 21. He shared an apartment with a friend who is a dramatic coach, at 303 W. 57th St.

The five coroner's jurors heard Dr. Herman Jones, Fulton County crime expert, testify that "without a question or doubt" a nine-millimeter Belgian automatic found on Pulley "fired the fatal bullet into the body of John Garris."

Dr. Jones said last night he was satisfied "that this gun fired" a slug taken from Mr. Garris' body. He said FBI comparison tests, in which it admitted failure to match the slug with the Belgian gun, were contradictory.

Killed Policeman

Pulley was arrested in Clinton, S. C., the day after Mr. Garris was found dead. He had jumped parole after being convicted of killing a policeman in North Carolina.

Pulley was returned to the state prison at Columbia but South Carolina authorities have indicated a willingness to release the suspect to Atlanta authorities.

Well, Here I Am!

Sir William Haley, director general of the British Broadcasting System, arrived at New York International Airport, Idlewild, at 7:15 a. m. today. "I am here because I have not been here in six years," said Sir William.



Screen star Bette Davis is confined to her home with flu fever apparently contracted on a Lake Tahoe location trip. Studio officials say she may be able to return next week.

Jolted Hiss Silent, Wife Near Tears

Alger Hiss never had a chance to read the statement he had written through the long hours of waiting yesterday. It was to have been his statement to the press, following his acquittal.

But the acquittal never came. And as the jury was discharged the handsome 44-year-old former government official, who had been called a "traitor," refused to discuss the statement.

"Not now," he pleaded. By his side was his slight, modestly dressed wife, Fricilla. Her face red, she seemed near tears as her husband clasped her hand. She said nothing to reporters who flung questions at her.

Mr. Hiss, however, managed a thin smile at the end of his 20-hour ordeal. "Please," he said, almost in desperation, as reporters flung questions at him.

Mr. Hiss had not been as reticent earlier in the day when he

said he expected to visit his 81-year-old mother in Baltimore, before going to Peacham, Vt., for the summer. And he told of his teaching plans at a Quaker school.

For Mr. Hiss had confidently expected an acquittal. The outcome had been a harsh blow, one still leaving him under the cloud of suspicion that arose last summer when Whittaker Chambers told his story.

As Mr. Hiss waited for the crowd to clear out of the courtroom, he whispered to his wife, Lloyd Paul Stryker, his lawyer, walked over to prosecutor Thomas P. Murphy. They shook hands. Soon after the Hisses made for the elevator.

Outside the courthouse they ran into a throng of photographers and curious. Flashbulbs lit up the usually deserted Foley St. Someone in the crowd shouted:

"Better luck next time, Alger."

full and complete and they tell the whole story. Both sides are entitled to a full and judicial trial."

These developments followed last night's discharge of the jury after it had become hopelessly deadlocked. The jurors were split 3 to 6 in favor of convicting Mr. Hiss on charges he had when he denied having turned over confidential documents to Whittaker Chambers, then a Soviet espionage agent in 1950.

A demand that Mr. Hiss be brought to trial "before an unbiased federal judge of the highest integrity and with prosecutors whose abilities are beyond question" was made by Rep. Clarence Brown (R., Ohio).

May Reopen Probe

Meanwhile, the possibility the House Un-American Activities Committee might reopen its own investigation of the Hiss-Chambers controversy was raised by Rep. Francis Case (R., S. D.). Mr. Case said he would ask the committee to hear in secret several government witnesses who were refused permission to testify during the Hiss trial by Judge Kaufman.

Among these witnesses, Mr. Case said, was Mrs. Hilda Manning, former wife of Gerhard Eisler, the fugitive Communist. Mrs. Manning had been prepared to testify that as a Soviet agent in prewar Washington she allegedly discussed common spy problems with Mr. Hiss.

Mr. Nixon, a member of the House Un-American Activities Committee, is demanding a probe of Judge Kaufman's conduct, charged that he had been prejudiced in favor of Mr. Hiss. "His prejudices was so obvious and apparent that the jury's 3 to 6 vote

(Continued on Page Two)

Bullet Removed From Waitkus

By the United Press. CHICAGO, July 9.—Baseball star Eddie Waitkus, who was shot June 14 by a loveick tylist, underwent his fourth operation today. Surgeons removed a bullet from the ballplayer's chest because of a developing infection.

Today's Index

	Page
Amusements	6 and 8
Bridge	8
Camera News	8
Comics	9
Crossword Puzzle	9
Editorials, Talburt Cartoon	20
Honor Roosevelt	8
Frederick C. Othman	8
Joe Williams	8
Movies, Alton Cook	6
Music	8
Obituaries	8
Potomac Patter	8
Radio and Television	8
Society	8
Sports	6 to 8
Theaters	8
Robert Dana	8
Weather Potocast	8
Woman's Page	8
Your Marriage	10

'I Am Destroying Myself for Cause,' Chambers Feels

By NICHOLAS BLATCHFORD,
Scripps-Howard Staff Writer.

WASHINGTON, July 9.—Whittaker Chambers believes he is destroying himself for a cause.

The man on whom the government's whole case against Alger Hiss rested told me:

"I am very reluctantly and grudgingly step by step, destroying myself as that this nation and the faith by which it lives may continue to exist.

"It is not a role I would have chosen for myself. I am merely doing the job, as I see it."

It was this motive—to expose Communism in America—he said, which prompted him to testify against his former friend, Mr. Hiss.

The New York jury which heard the case could not reach a verdict after 16 hours and 44 minutes deliberation. It reported it was deadlocked.

Tells of His Worries.

Mr. Chambers talked quietly and slowly at his farm near Westminister, Md., 60 miles from Washington. He fussed with his pipe, gazing on it methodically, his eyes on the rolling pastoral landscape.

He talked as a man who has committed himself—irrevocably—to a certain course of action from which he would not withdraw even if he could.

"I wouldn't have you suppose that I don't worry," he said. "I have to worry about exposing my wife to such a shocking experience as her pretrial questioning and her cross-examination at the trial. I have to worry about the impact on my children.

"For myself, I hardly need to worry at all."

"I have a task to do and I am going about it in my own crude way," he said sadly. "Someone, some way, had to come along and lift off the lid. Someone had to say: 'This is what's inside.'"

Time Is on My Side.

"The man who lifts the lid has to testify just as much against himself as against anybody else. I just seem to be able to stand the ordeal.

"I did what I had to do and I'll do in the future what I'll have to do. And time is on my side. It may take a long time, but time will bring out the truth.

"I can't say where it will end," he said. "I have no plans other than to go on living. I'm running a dairy farm here. The rest is in the hands of the gods."

When he spoke of Mr. Hiss, his voice grew deliberate and some of the warmth went out of it.

"I think I said at the trial that I had a strictly neutral feeling about him," Mr. Chambers said. "I guess that's probably as close as I can come to an evaluation."

He said that when he first knew Mr. Hiss he was "an extremely pleasant, kindly, easy-going man."

Mr. Hiss had been more than an ordinary friendship, that it had been a deeply emotional thing.

"That's nonsense," he said. "Nothing could be more absurd."

"It has never been easy to testify against him," he said quietly.

"Or anybody else in the trial. He's only one of a dozen people involved in this, but he's the one who chose to brazen it out."

"This is a tremendous case," he said. "It involves the basic issues of our times. Unfortunately, it has become a clash of personalities. We are all in this historical dilemma—all of us. But no one has gotten to the roots of the question.

"A religious age would have no difficulty at all in understanding this story. The story is how—why—men become Communists, why they continue to be Communists and why some break and some go on."

Two Sets of Reasons.

"There are two sets of intersecting reasons why I became a Communist. One is personal, one political.

"As an adolescent, I had watched with great interest and some horror the first world war. And as a young man in Europe, I saw at close hand the inflation in Germany and the occupation of the Rhineland. . . . the enormous battlefield graveyards and debris of a civilization in collapse.

"I believed that something should be done about it and that I should do something about it. I thought I found the answer in the tactical teachings of Lenin and others.

"Therefore, I became a Communist," he said.

"There was a personal reason, too. In every period of history there are numerous maladjusted intellectuals. . . . thousands of such people. In my own case, the Communist theory offered me an explanation of why so many thinking people in our time are maladjusted.

"It offered me a course of action whereby I thought I might make life more suitable for myself and all other men. This combination of a definite force of action and a vision of the future is all but irresistible.

"Back from Europe, well shaken up by what I had seen, I went around hunting rather desperately for the diagnosis and source of treatment. . . .

"I read a pamphlet by Lenin on 'The Soviet at Work.' That filled the gap. It explained how you take power and how you ex-

In Hiss Epilogue



Rep. Richard Nixon.



Judge Samuel Kaufman.

Probe of Hiss Judge Demanded in Congress

(Continued from Page One)

for conviction came frankly as a surprise to me," Mr. Nixon said.

"When the full facts of the conduct of this trial are laid before the nation I believe the people will be shocked. It is my intention and I know this intention is shared by a number of my colleagues that the full facts shall be presented in due time."

Mr. Nixon, who nearly a year ago had pressed the original charges made against Mr. Hiss by Mr. Chambers, said object of the proposed investigation would be to "determine the fitness of Judge Kaufman to serve on the bench."

Refused to Oust Juror

Mr. Nixon told the World-Telegram such a probe would look into Judge Kaufman's refusal to oust a juror who the government said had been reported to have voiced pro-Hiss opinions at the start of the trial in alleged violation of an oath to keep an open mind and not discuss the case with anyone.

The trial transcript shows that Thomas P. Murphy, chief government prosecutor, had in the judge's chambers asked for the removal of the juror, Hubert Edgar James, of 1047 Madison Ave., but that Judge Kaufman had denied the request.

Mr. James, a junior executive with the General Motors Acceptance Corp., 1775 Broadway, had, according to other jurors, been insistent on acquitting Mr. Hiss.

The government's position was made emphatically clear by Attorney General Tom Clark in Washington.

"The Department of Justice will vigorously prosecute the Hiss case again as quickly as the deat of

reach a verdict after Mr. James had indicated the difficulties involved. Tumblers had flared behind the closed doors of the jury room when, from almost the beginning of the deliberations Thursday afternoon, eight jurors argued vainly with four others who were convinced of Mr. Hiss' innocence.

Following the jury's discharge Mr. McCobey announced Mr. Hiss would be continued in 1950 hall and the now-famous Woodstock typewriter which the government contends was used by the Hisses to type copies of State Department documents for Mr. Chambers was impounded. The latter move had the approval of the defense.

Dollar Crisis Talks To Be Continued

By the United Press.

LONDON, July 9.—The British, American and Canadian finance ministers agreed today on "arrangements for further consideration of long-term measures" to cope with the world dollar crisis.

John W. Snyder, Secretary of the Treasury; Sir Stafford Cripps, Chancellor of the Exchequer, and Douglas Abbott, Canadian Finance Minister, concluded two days of conferences late today.

They withheld their final statement on the talks until tomorrow after another conference with Prime Minister Clement P. Attlee.

'Closest Friend'
 "We and our families got along the way people do in ordinary life," he said. "Talking about birds and people and houses and ordinary things. . . . He was the closest friend I had among these people." (He referred to the men he has accused of being part of a Communist group aiming at infiltrating the government in the 1930s.)
 Mr. Chambers scoffed at reports that his relationship with

been searching for.
 "So, I set about to find the Communist party of the United States which was very hard to find."
 "Afterwards I had no moral scruples for whatever I did. No Communist would."
 "There are two tremendous moves a man can make toward Communism and away from it. Both involve the same suffering. "I have an acute feeling that time is running out."

the court will permit," Mr. Clark said.
 However, indications were that the trial could not begin before October, because of the scarcity of federal judges. It was this scarcity which led to the postponement Thursday of the New York conspiracy trial of Judith Coplon and Valentin Gubitchov.
 That the case will be retried by Mr. Murphy, the special 6-foot-4 prosecutor who had stepped out of character Thursday to flail Mr. Hiss as a "swearing traitor, a Judas and a Benedict Arnold," was announced by U.S. Attorney John P. X. McOshey.
 Mr. Murphy was bubbling over with enthusiasm over the result.
 "The way the jury stood," he said, "eight to four, convinced me that righteousness was on the side of the government. Don't forget, it was two to one."
Hiss Disappointed.
 The "no decision" was a bitter disappointment to Mr. Hiss, who had hoped by an acquittal to give the lie to Mr. Chambers' charges that he was involved in Soviet espionage.
 And while it was no complete vindication for Mr. Chambers, the former senior editor of Time magazine said the World-Telegram he wouldn't be human if he wasn't pleased at the outcome.
 "In view of the decision I feel it is not necessary to make any statement," Mr. Chambers said. "However, I am prepared to go through another trial."
 It had been a long wait for both men in a drama which began last summer when Mr. Chambers testified before the House Un-American Activities Committee and named Mr. Hiss, among others, as a member of a Communist underground group in prewar Washington.

Meanwhile the Conservative party opened a broadside campaign against the Laborite government, placing the full blame for the economic crisis on the Socialist planners.
 The Conservative benches were loaded in speeches throughout the country. They were a prelude to two days of debate in the House of Commons starting Tuesday.

\$150,000 Canada Band Bared by Raffles

Gerard Dennis, Copper Medalist held in Westchester County Jail, has talked about his Canadian exploits. It was announced today by Montreal police, and has given information leading to the solution of 11 gun burglaries involving loot worth \$150,000.

Three Montreal police officials who spent two days questioning Dennis in the warden's office of the jail said today he had talked freely.
 "Dennis confessed to having participated in the thefts, and he supplied us with valuable information that probably will lead us to recovery of part of the stolen goods and a few arrests," an official reported.
 Dennis was said to have admitted participation in an \$80,000 robbery at the Montreal home of Mrs. Noah Thomas, widow of a mining magnate, and to two other burglaries involving \$20,000.

Woman, 70, Back Here By Aid of Congress

Why Sir Stafford Wears Lean and Hungry Look

By ANDREW TULLY,
 Scripps-Howard Staff Writer.

WASHINGTON, July 9.—If you think you've got troubles, take a look at Britain's Sir Stafford Cripps.
 He's not only Chancellor of the exchequer with nothing to exchequer, but he's had a bellyache since he was a kid and hasn't eat anything but uncooked vegetables.
 Around English saloons Sir Stafford is known as Misery Cripps because he sends all the country's boom to America. But you have to admit he was a prodigy. Why, at 22 he made a speech to the Royal Society on "the Critical Constants and Orthobaric Denials of Xenon," and at 40 he was making \$100,000 a year as a lawyer.

Kicked Out of Party.
 You'd think he would have fallen over capitalism, but not Sir Stafford. He joined the Labor party and began saying Russia had a seven-day religion and Buckingham Palace was a lot of junk. Other Laborites thought he was being kind of rough but they didn't say anything until, in 1939, Sir Stafford suggested getting together with the Liberals and Communists and getting a little social program. For that he got chucked out of the party.

During the war Winston Churchill made him Ambassador to Moscow to try to get Russia to the right side. Sure enough the Reds and Nazis got mad at each other and the English gave Sir Stafford a lot of credit for it.

After his success in Russia, Mr. Churchill made Sir Stafford leader of the House of Commons but he flopped because he couldn't talk the politicians' language.

With Russia respectable again—for a while—Sir Stafford went around saying I-told-you-so to such an extent that the Labor party took him back just before its big victory in the 1945 election. Sir Stafford became president of the Board of Trade and coined a term for not eating enough and going around in last year's union suit—"austerity."

People kicked but the program seemed to work then and pretty soon the party gave Sir Stafford more power by making him Minister of Economic Affairs. Then, a little while later, he got the exchequer job when Hugh Dalton had to resign for telling budget secrets to the press.

Gives Away Income.

ANNOUNCEMENT

- WANT THE CHEAPEST CHUCKS. You're sure to want the girls who are of the attractive type advertised in the Good Car Directory on 20 West Page.
- 1000000 Margarine equipment ring 23 diam. covered bracket attachment with gold top and 100 diam. pin. Owner must service. See 204, World-Telegram.
- 1000000 equipment ring 24, 2222, original 1000. Approval permitted.
- PROBATIONARY COLLATERAL CO., INC., 279 South Ave. (43rd St.), N.Y. 2-2877.
- DIAMONDS FROM ESTATES. 1000. Brilliant Gem, 9775. Estate \$1000. Refund guaranteed within 30 days. RUS BYNDER, 68 NASSAU ST. DR. 9-2642.
- PLACES WANTED. CIRCLE 3-0228.
- MAN got you 2049 Hudson, 20 miles. Good \$1000 up. See 1548 World-Telegram.
- 1000000, 2000000, other fine items, like 1000000, 20 C. 2400 St.

New York Journal American
Sunday, July 10, 1949

Hiss Trial Conduct Widely Protested

By LESLIE GOULD
Financial Editor

The deadlock of the Alger Hiss perjury case jury—8 for conviction and 4 for acquittal—puts the spotlight on the general conduct of this important trial by Federal Judge Samuel H. Kaufman and on some of the court's rulings.

The question in everyone's mind is whether or not Judge Kaufman was prejudiced in favor of Hiss.

To this reporter, it appears there is ample evidence that Kaufman's rulings and attitudes during the trial were detrimental to the Government's case.

The case was one of the biggest and most sensational that has broken in years. The selection of Judge Kaufman, a newcomer to the bench, who had failed to win endorsement of his nomination from two of the three major bar associations in New York, to preside, stirred controversy at the start.

Investigation Demanded

This controversy got hotter as the trial progressed, and now with the case forced into a second trial, members of Congress are demanding an investigation of Judge Kaufman's conduct.

Of Judge Kaufman's decisions and rulings that are open to question and criticism, first on the list is his allowing Juror No. 1—the foreman, Hubert James—to continue in the box after charges had been made to the FBI that he had expressed an opinion outside the court that Hiss was innocent.

James, a nattily dressed, grey haired man, was one of the four jurors who held out for Hiss' acquittal.

When questioned about the charges after the jury was dismissed as hopelessly deadlocked, James said:

"I didn't do anything in violation of my obligation as a juror."

The fact that the prosecution had raised on the second

Continued on Page 12, Column 1.

Conduct of Hiss Trial Under Wide Protest

By LESLIE GOULD

Continued from First Page

Full day of the trial a question as to the pro-Hiss bias of one of the jurors did not become public knowledge until this writer broke the story Friday. This was after the jury had started its deliberations.

The FBI report, put in the trial record on June 2, said a man had phoned in that when visiting a convalescent home at Denville, N. J., a "Mrs. James said that she was the wife of the foreman of the jury that was trying Alger Hiss and that he was sympathetic for the defendant Alger Hiss and that he would use his influence to convey that sympathy to other jurors."

Judge Kaufman allowed the juror to remain, and covered himself by saying on June 6:

"Well, I have conferred with one of the judges on Saturday about this question, and he agreed at least at this time in the present state of this record that nothing should be done."

It was admitted the charges against juror No. 1—James—were hearsay, but Thomas F. Murphy, the Assistant Attorney General heading the prosecution, told the judge he felt a juror should be like Caesar's wife, above suspicion.

Some of Kaufman's Rulings

Ranking with this decision of Judge Kaufman, who won his bench appointment through the sponsorship of Tammany Hall and Democratic Boss Ed Flynn of the Bronx, were his rulings:

1—Barring as a rebuttal prosecution witness Mrs. Hede Massing, former wife of ball-jumping Communist Gerhard Eisler. Mrs. Massing was to be questioned on whether she knew Alger Hiss as a member of the Communist apparatus in Washington.

Hiss on cross examination had denied knowing her. Lawyers believe that while Judge Kaufman was technically right in the strictest legal sense, he could have permitted her testimony if he had chosen to.

Mrs. Massing, if she had testified knowing Hiss as a Communist, would have corroborated Chambers on his charges Hiss was a party member.

Called 'Cockeyed' by Lawyers

2—Preventing prosecution questioning of Alger Hiss as to suicides in the Hiss family—his father and sister were listed as taking their lives—while permitting the defense to quiz Whittaker Chambers as to suicides in his family. This, lawyers say, was "cockeyed." That if it was proper to question Chambers, it was proper to question Hiss.

Admission of this testimony would have offset the unfavorable light Chambers was put in as to his family's emotional tendencies.

3—Judge Kaufman's behavior while Chambers, the chief prosecution witness, was on the stand, and his frequent sharp questioning of Chambers and his general handling of the witness. The N. Y. Times reported "Chambers had rough going." In marked contrast to the judge's "hard-belled" attitude to the Government witness was his failure to inject himself into the examination of Hiss.

This tended to give the jury the impression that the judge questioned in his own mind Chambers' veracity.

7/10

Stopped Identification of 2

—His stopping Chambers from identifying Harold Ware, son of the Communist leader known as "Mother Hiss," and Jay Peters, a noted Communist allowed to leave the country recently. Lawyers who have followed the case say the prosecution had every right to show who these men were.

Admission of this would have lightened the Government's case by making Hiss to known Communists.

—Judge Kaufman's moving down from the bench on a level with Mrs. Chambers while she was testifying. The pretext was to hear her better.

This action on the judge's part put an additional strain on the witness, but did not confuse her as the next point will show.

—Judge Kaufman's faulty recollection of testimony when he challenged Mrs. Chambers as to her statement that her husband used no last name in their contacts with the Hisses.

Mrs. Chambers said, "They (the Hisses) called me Lisa and called my husband Carl. We never had a last name."

The N. Y. Times report went on:

"I don't understand your answer," Judge Kaufman challenged. "Your husband testified that you were known as 'Crosley.'"

Spectators Cried, 'Oh, No!'

"As cries of 'Oh, no' came from the spectators, the witness replied that she and her husband were known to the Hisses only as Carl and Lisa."

If the witness had been intimidated by having the judge so abruptly challenge her while sitting near her instead of on the bench where he belonged, it could have upset the balance of her testimony and made an impression on the jury.

—Judge Kaufman's agreement with Defense Counsel Stryker's remarks on the testimony of John Foster Dulles, noted lawyer and trustee of the Carnegie Foundation. Stryker remarked, "Nothing that Mr. Dulles has testified to yet is in conflict with the testimony here."

A Surprising Remark

The N. Y. Times reported "When Judge Samuel H. Kaufman expressed agreement with the defense counsel's statement, Mr. Murphy said, 'First, I must disagree with your analysis of the evidence.'"

Mr. Murphy then defended his right to have Mr. Dulles as a witness, and the judge sustained him, overruling the defense objection, but made this surprising statement as quoted in the Times of July 1:

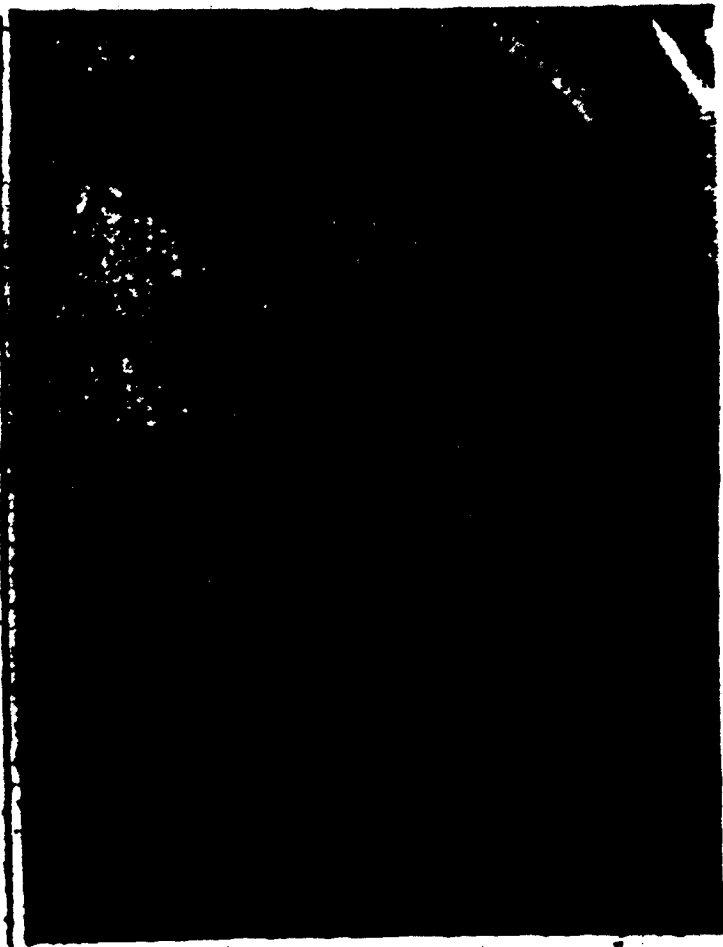
"Go ahead and see where he gets."

This kind of remark from the bench could have a big influence on a jury's mind as to a particular witness's testimony. Dulles was a key witness, for he directly contradicted Hiss on an important point—whether he—Dulles—had asked Hiss to resign from the Carnegie Foundation.

His Attitude Toward Frankfurter

—Kaufman's behavior when Supreme Court Justice Felix Frankfurter and Stanley Reed testified as to Hiss' earlier reputation.

There was a lot of bowing, scraping and fawning. Judge



JUDGE SAMUEL H. KAUFMAN
Conduct of Hiss Trial Under Fire

Kaufman allowed Frankfurter to keep right on answering a question after he had ruled on a prosecution objection that the Supreme Court justice could not reply.

There was no reprimand from the bench on this, when there should have been, for Frankfurter was no ordinary witness. He knew the rules of procedure, but he was the great Felix Frankfurter.

Prosecutor Murphy showed no deference or awe for this justice, the propriety of his taking the stand being one open to serious question. As far as is known no other Supreme Court justice has done this.

Judge Kaufman stopped Murphy from questioning Frankfurter about other Harvard Law School graduates who had gone into Government, naming Leo Pressman, a well-known left-winger.

If the prosecution had been permitted to pursue that line of questioning as to Pressman and others of his left-wing bent, Frankfurter's effectiveness—if any—as a witness might have been destroyed.

Say Vital Testimony Was Barred

—Kaufman's refusal to permit testimony by an official of the Obermer Motor Co. of Washington and William Rosen, who had refused to say elsewhere under oath whether he was a Communist or not. They were to testify as to the disposal of Hiss' old 1939 Ford roadster, which Rosen ultimately got.

Lawyers following the case say this testimony was vital and material and should have been permitted, that the judge was wrong in barring it.

This testimony was wanted by the Government to nail down its charges of the alleged close connection of Hiss to Communists. What happened to Hiss' car was more than germane to the case.

Technically Covered Himself

10—His permitting the defense to keep in the courtroom during the trial Dr. Carl Binger, a psychiatrist, and to permit Dr. Binger to take the stand while a 45-minute question concerning Chambers' sanity was put to him. Dr. Binger was not allowed to answer, but the jury heard the full question.

This is another instance where Judge Kaufman, according to lawyers, technically covered himself, but is open to question as to propriety and fairness to the prosecution.

Having an expert on sanity sit through a trial in the presence of the jury could put a question in the minds of the tribunal as to the credibility of the Government's chief witness.

The judge's charge to the jury obviously was carefully prepared, but as one lawyer put it, it was a "masterpiece of slanting." A great deal of emphasis and time was given to instructing the jury to weigh the backgrounds and the appearances of the two chief witnesses—Hiss and Chambers.

Mistakes of a Novice?

Whether these and other happenings in this fantastic case were errors or mistakes of a novice to the bench or whether there is something more to it, a jury of lawyers or a Congressional committee will have to determine.

A judge is supposed to fill the role of a cold, unemotional umpire, sitting with dignity on his bench, passing on matters of law and seeing that the rules of evidence are closely adhered to by both sides. He is supposed to be impartial, and in this trial Judge Kaufman's impartiality is open to very serious questioning.

Judge Kaufman was appointed to the Federal bench—a life-time job at \$15,000 a year—over the opposition of such lawyer organizations as the American Bar Association, the New York State Bar Association, the Association of the Bar of New York City, and the Federal Bar Association of New York, Connecticut and New Jersey.

Worked Hard for Appointment

He was endorsed by the N. Y. County Lawyers Association, and one of his early acts on ascending the bench was the appointment of I. Howard Lehman, president of the N. Y. County Lawyers and a supporter of Kaufman's nomination for the bench as one of the trustees of the Third Ave. Transit Co.

This trusteeship is estimated by those in the legal profession to be worth at least \$100,000 and more likely a quarter of a million.

Few if any candidates for the bench desired the appointment or worked as hard to obtain it as did Kaufman. He received an interim appointment from President Truman last year when the Senate Judiciary Committee failed to act on his nomination in the Spring of 1948.

After the November election, the President resubmitted the nomination and Kaufman was confirmed in January of this year.

He was a successful trial lawyer with important New Deal political connections. One of these is Sen. Brian McMahon of Connecticut, who, before going to the Senate, represented with Kaufman the notorious draft dodger—Serge Rabinstein—in an immigration case.

Kaufman had been retained by Rabinstein on one of his companies on at least two other occasions.

New York Daily Mirror, Monday, July 11, 1949

6 'Counts' of Bias Charged To Hiss Judge by House Prober

By GEORGE MOISE

WASHINGTON, July 10 (INS).—Rep. Velde (R.-Ill.) charged today that Judge Samuel E. Kaufman was guilty of "bias" and "gross impropriety" in the New York perjury trial of Alger Hiss. Velde, a member of the House Un-American Activities Committee, former Illinois judge and former FBI man, issued a "bill of particulars" citing six Kaufman rulings which he said members of the legal profession agree showed "marked bias for the defense" that "bordered on judicial misconduct."

In view of this, he said, it is "obvious" that an investigation of the judge's conduct "cannot be sidestepped."

The six "flagrant examples" which are to be found in the record, Velde declared, are:

1. Kaufman told the jury that Whitaker Chambers, key prosecution witness, used the name "George Crosley" when Chambers' wife testified he was known only as "Carl" to Hiss. The defendant swore he knew Chambers as Crosley. Kaufman "allowed his unwarranted perversion of the testimony to remain in the record, damaging to the prosecution and helpful to Hiss, though it was."

2. Kaufman permitted parts of the grand jury record containing Hiss' testimony to be turned over to the defense lawyer, "despite heated protest from the prosecution that grand jury records are secret."

3. Kaufman let a defense psychiatrist watch Chambers throughout his appearance, then go on the stand to hear a "remarkable" 45-minute question by defense counsel Lloyd P. Stryker which "amounted to an illegal mid-trial summation of every charge and fact that the defense had mustered against the credibility" of Chambers. Even though Kaufman ruled the psychiatrist

Query Barred

4. The judge allowed Stryker to question Chambers about a suicide in his family, but barred the prosecution from questioning Hiss "about two suicides in his immediate family."

5. Kaufman refused to let the jury be given the identity of Harold Ware and J. Peters, through whom Chambers said he met Hiss. Velde said this was "highly favorable to Hiss," since the two were "known Communist operators of Washington spy rings."

6. The judge "declined to act," though he had been given two FBI reports indicating that jury foreman Hubert James thought Hiss innocent and would try to get him acquitted.

Velde said "the Judge's most biased acts cannot be discovered in the record," adding:

"His sarcastic and scornful voice employed when addressing key government witnesses, and his impatient gesturing, chair whirrs, and head move-

Continued on Page 20

ments indicating ~~stability~~ of their ~~judgments~~. Do not of course show in ~~the~~ record . . ."

Also not in the record, Velde said, was Kaufman's effort "to lean down from the bench and shake hands approvingly" with Supreme Court Justices Frankfurter and Reed, who appeared as character witnesses for Hiss. In addition, Velde said:

"Judge Kaufman's gentle, even friendly regard for Alger Hiss and all witnesses who testified in his behalf was in shocking contrast to his treatment of prosecution witnesses."

Velde flayed former War Secretary Patterson, another former Federal judge, for "rebuking" Congressmen who have raised questions about Judge Kaufman's conduct of the trial. He said:

Sees Retraction

"I am confident if Mr. Patterson will re-read the Constitution of the United States, which specifically imposes on members of Congress—and no one else—the burden of surveillance on the conduct of Federal jurists, he will want to withdraw his untimely comment."

A demand by Rep. Nixon, also of the Un-American Activities Committee, for investigation of Kaufman's conduct met a "go slow" warning from Chairman Wood (D., Ga.). Wood pointed out that such an investigation would be conducted by the Judiciary Committee, whose chairman, Rep. Celler (D., N. Y.) is an Administration supporter.

Nixon also demanded that a prosecution witness barred by Kaufman be heard by the committee.

Three Republicans and one Democrat on the committee are advocating reopening the Hiss hearings. The proposal may be discussed at a meeting Tuesday.

Hiss, former State Department policy-making official, was tried on charges of lying to a grand jury when he denied taking government secrets for transmission to Russian agents.

The trial ended when the jury split eight to four for conviction, was unable to reach a verdict. The government has announced it will request a new trial.



REP. VELDE Charges bias by Hiss trial judge. (Mirror Photo)

could not testify and ordered the question stricken, "the damage was done," Velde asserted.

New York Daily Mirror, Monday, July 11, 1949



House Debates Kaufman Role

Special to N. Y. Journal-American.
WASHINGTON, July 11.—The dispute over the conduct of the judge who presided at the Alger Hiss perjury trial boiled over on the House floor today.

Some House members defended Federal Judge Samuel H. Kaufman as a "distinguished and able" lawyer; others denounced him as a man who has "reflected discredit upon the entire bench."

Rep. Moulton (D-N. Y.), declared:

"The attacks upon Judge Kaufman are unfair because he cannot fight back since the defendant is to be retried. It would be unethical for him to comment on the case."

PRAISES MURPHY.

But Rep. Cox (D-Ga.), denounced Kaufman's conduct of the trial. He said it contrasted sharply with the "zeal and energy" shown by Thomas F. Murphy, chief government prosecutor.

"Almost singlehanded, he (Murphy) fought against what was apparently a conspiracy to cheat the law and liberate a traitor," Cox said.

Over the weekend, two members of the House Un-American Activities Committee—Reps. Nixon (R-Calif.) and Velde (R-Ill.)—called for an investigation of Kaufman's conduct.

Both said Kaufman's conduct was prejudicial in favor of Hiss and against the prosecution.

ACCUSES NIXON.

Rep. Hays (D-O.) said Nixon has "made some unwarranted, vicious, partisan political accusations against the Administration in connection with this case."

He said the situation gives rise to the question whether any member of the Un-American Activities Committee has the right to interfere with the judiciary branch of the Government.

Velde is a former Illinois judge and also a former FBI agent.

BIAS FOR DEFENSE

Prefacing his six-count charge against Kaufman, Velde said:

"As the Alger Hiss trial progressed through its six-week course, there was a growing opinion among members of Congress and the legal profession with whom I talked, that Judge Kaufman, by his rulings and his actions in the courtroom, was showing a marked bias for the defense that, to say the least, bordered on judicial misconduct."

Congress, always sensitive to its prerogatives, was quick to jump on a statement of former Secretary of War Robert F. Patterson, who takes to Kaufman's defense.

Patterson contended that it would be a "blow to the judiciary" if a committee of Congress should investigate "the ruling made by a judge."

Article I, Sec. 3, of the Constitution, leaders pointed out, states "Congress shall have the power to constitute tribunals inferior to the Supreme Court."

Article 3, Sec. 1, provides that in the case of judges:

"The judges of the Supreme Court and inferior courts shall hold their office during good behavior."

TRIAL BY SENATE

The Constitution furthermore provides that when the House decides that a judge has not been in "good behavior" the Senate then shall sit as a trial jury in impeachment proceedings.

Rep. Velde, who is a member of the House Un-American Activities Committee, after issuing his charges against Kaufman, said:

"I am seeking to get the facts before the public to show that the New Deal has been covering up these facts for the past 17 years."

"You know the number of espionage agents turned up by our committee and in practically every case nothing has been done about it."

"It is obvious that an investigation of this case cannot be sidestepped."

New York Journal American, July 12, 1949

As Pegler Sees It

Alger Hiss Case Damaged Esteem of Federal Bench

By WESTERBROOK PEGLER

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WASHINGTON, July 11.—HOWEVER PAINFUL THE EXPERIENCE may have been to Judge Samuel H. Kaufman, Alger Hiss, Whittaker Chambers and the citizens of the jury, the indecisive perjury trial has had an educational value. The people are now better informed on the foreignism which permeated their own elected government under Roosevelt and his legates, or have but themselves to blame if not.

The legal issue finally narrowed down to a question whether Hiss was a worse liar than Chambers, but actually the citizens who compose the greatest more or less free nation in the world and enjoy the most abundant and luxurious material civilization in the history of mankind had their first opportunity to study in detail an appalling betrayal of their trust by a regime of impudent, cynical and overbearing adventurers.

From Roosevelt down, or better say from Felix Frankfurter down, these fellows evinced contempt for the intelligence and soul of the American people which was equalled by Harry

Hopkins, Roosevelt's plenipotentiary, in a snarling threat to degrade them to the status of the snuffling robots of Soviet Russia, which was Hopkins' spiritual homeland.

This is no distortion of Hopkins' intent as expressed in an article published under his name by the American Magazine which has been for years a semi-official journal of this vast conspiracy against an unsuspecting nation.

This text from the gaudy racketeer who shared and usurped Roosevelt's personality and powers, should be exhumed from the files and analyzed by every citizen with the intelligence and surviving spark of hope to care. It should be revealed and its mocking contempt interpreted to children who will vote 10 years hence.

OLD, NORMAL ATTITUDES TOWARD RESPECTED institutions are maintained only at the risk of injury to the people. Not long ago the people of the United States respected the Federal courts on a rising scale from the district up to the court supreme. A Federal judge was a man apart and a little above all local and State officials. Most Federal judges were careful to deserve respect.

The vulgarities of Holmes and Brandeis, of the Supreme Court, have been seized upon as justification of their own low character by persons incapable of sustained decency and dignity. But, on the whole, the court was a superior institution until Roosevelt spitefully began its degradation with the nomination of Hugo Black.

This destruction of quality and virtue by deliberate plan of men who hated fineness because it was not in them is responsible for the present embarrassment or pain of Judge Kaufman.

Before Roosevelt, the judge's motives for his rulings against the prosecution and in favor of a man accused of betraying the government would not have been questioned except on the most flagrant evidence of dishonesty. The fact that a perjury case fell to him, a partisan of the governing party and appointee of the President, would have been meaningless.

But the United States courts, from the Supreme Court down, were brought into contempt and suspicion not by the people but by the party which had the effrontery to lift from Chamberlain and Hitler the retroactive system of justice and to fight for a proposal whereby pet, prejudiced judges could be selected arbitrarily by the regime to sit in judgment on its enemies. And this from the leering crew who shattered homes, bodies and lives for a war on fascism.

IT IS APPROPRIATE THAT JUDGE KAUFMAN'S political history, his associations and every ruling that he made in this trial should be examined with a cold, even a suspicious mind. If he had ulterior motives, so much the better. But the people have learned from their contacts with tax reviewers, agents of the Wages and Hours Administration and other wily catchpools, of the plan to regard the assumption of innocence as fairness gone haywire.

These party agents were sent to hurt the administration's victims. Their propositions were so contrived that a man who proved his innocence on one count automatically proved his guilt on another.

It has been a wicked corruption of a beautiful relationship between people and a government which was elected to serve them but chose to master them and did. There is no confidence now. He who trusts a Federal judge in circumstances capable of sinister interpretation is living in the past.

If Hiss was guilty of perjury he was guilty of a treachery which in time of war would have been treason.

Our law does not provide a suitable penalty for the crime which would underlie the perjury if perjury there was. Treason to an acknowledged enemy in war is a capital offense. But acts of equal perfidy or worse in favor of an enemy who maintains the formal outwards of amity is a paltry compound of larceny, receiving stolen goods and conspiracy.

IF HISS WAS GUILTY OF PERJURY, then the basic crime was adherence to the enemy in that which President Truman has called a cold war. If so, then he was but one of a whole cabal of souped-up intellectuals from Harvard Law, which the late Roosevelt encouraged to corrupt and defile the fine society, indeed the civilization and morality, that were entrusted to his faithless hand.

He took Hiss with him to Yalta where he gave away a world to Stalin. If we but knew whether Hiss did or didn't lie on oath, as charged in this key case, we would have grounds for a sound conviction whether Hiss, the prodigy too precious for coarse and painful soldiering, actually manipulated the senile, groggy God-man and, himself, revoked the course of civilization.

Judge Kaufman must stand inspection. By his rulings he spared Frankfurter the need at last to submit his own character to skeptical examination. Long ago, Theodore Roosevelt said he lied, and his testimony here was evasive, evasive and incoherent though intended to convince the jury that he was endorsing the character of Alger Hiss.

Frankfurter put Hiss into the government. He stood for Hiss, Hiss stood for him and his teachings. Frankfurter has associated with Communists. He boasted that he put many of his proteges into jobs. But when the government would have shown up the character of these nominees of his, Judge Kaufman put a stop to that.

It has been an education up to a point, but we are not yet ready for commencement. The next trial may qualify us for our bachelor's degree in duplicity and disillusionment.

As Pegler Sees It Declares Kaufman 'Saved' Frankfurter at Hiss Trial

By WESTROOK PEGLER

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MANY RULINGS BY JUDGE SAMUEL H. KAUFMAN in the Alger Hiss trial were favorable to the defense and to the Roosevelt cabal and the Roosevelt myth. What, even his reason, I would say he saved Felix Frankfurter from demolition when he curtailed the cross-examination of Old



WESTROOK PEGLER

Weenie by Thomas F. Murphy for the Government. Murphy thereby was forbidden to bring up the names of Communists and fellow-travelers in the Government and put these people right in Weenie's lap.

For years, Frankfurter had been getting away with a clever little scheme to pack the Government of the United States with people of a mind and politics agreeable to his own. In fact, in this very court one of the few intelligible statements that could be dredged out of his evasive replies to Murphy was an unwise boast that he had been consulted by private and official employers far and wide on the selection of trustworthy help. Alger Hiss had been one of those,

but you would have to divine that because Felix did not say so flatly in his testimony. Although Frankfurter brahly rushed in, showing off as always, to give Hiss a good character, he stalled and filled in and, in total effect, was not clever but clumsy.

THERE IS NO USE OF HIS PRETENDING that his evasiveness was not intentional because he would readily admit that he is a man of superior intelligence and skillful in the use of language. When a man of such gifts resorts to double-talk and shews up masses of words he is hiding out.

An elderly magnate of our economy told me years ago that when he and Felix were serving in the Peace Conference in Paris at the close of the first war, Frankfurter remarked that a smart fellow with determination and energy could control the government of the United States by causing the appointment of individuals to key positions.

I doubt that he would permit me to name him because his company already has been put through one exhaustive and expensive investigation and an anti-trust prosecution because of some resistance to the grafting rapacity of a member of the royal set early in the New Deal.

But I call your attention again to the spotting of Frankfurter gone in the Government—Nathan Witt as Secretary of the Labor Relations Board during the riots and the raids of the GIO's dragons on whole communities of men; Henry L. Shinsen in the War Department and, now, Frankfurter's intimate friend and his mouthpiece of record, Dean Acheson, in the office of Secretary of State, the department in which Hiss formerly served and where he is alleged to have filed secret papers for transmission to Russia through an "apparatus" of handlers and other spies. And, all the while, David K. Wilson in the White House.

THE DEFLATION OF THIS GAS-BAG has been one profitable result of this trial and Thomas F. Murphy deserves honor for that eminent public service, the more so in view of the fact that he did it with two strikes on him and was not permitted to take Felix down the list of his appointees and proteges.

Incidentally, Mr. Murphy's attack on Alger Hiss in his summation must have given him a personal satisfaction above and beyond his professional pride of artistry because Hiss had dug him dirty by faulting his grammar during the cross-examination, and Murphy's neck had lit up like a neon sign on a gay saloon. Murphy had said "had ran" or something like that and Hiss, icily, had replied, "had run."

"Are you correcting me?" Murphy inquired. "No," Hiss said, "I am testifying."

To be sure, to be sure, Frankfurter was not the defendant, was not on trial in this case. But are we so sure, after all? He certainly did put his own character up for inspection when he presumed to stake the power of his name and the prestige of the Supreme Court, such as it may be after the vicissitudes and degradations of the Roosevelt years, on Hiss's case. And the curtailment of the examination lest Felix be forced to admit relationships with Communists and persons merely questionable left the details still behind a rather transparent but substantial curtain.

Many of us know what is behind the veil, but revelation of this stuff bit by bit is less convincing to the public than a dramatic expose of all of it at once in court would have been. So, although Murphy did take him down appreciably and send him away wilted, Frankfurter survives.

A layman would resist the temptation to believe that Judge Kaufman was biased, whether consciously or no, but for the fact that so very many lawyers have given us ignorance and comfort in our opinions. I do not recall any case in the past in which the lawyers did not put themselves on the side of the judge and the court and deplore the instinctive but erroneous judgments of the people.

But in this case, many lawyers have spoken out in criticism of Judge Kaufman's rulings and one publication, the Lackawanna Jurist, of Scranton, Pa., carries an editorial condemning Frankfurter's conduct as "inexcusably thoughtless or wanton disregard" of his exalted office. It gives Frankfurter and Justice Stanley Reed, who also left the bench and took the stand for Hiss, a terrible going-over and concludes with the observation that "this is clearly a case for condemnation and reprimand."

Reveal Patterson Note Backing Hiss

Spy Charge Derided

Whitaker developments in aftermath of Hiss trial . . . Page 2

By HOWARD KUSHNOR

Robert P. Patterson, former Secretary of War, who rushed to the defense of Federal Judge Kaufman, accused of judicial impropriety in the Alger Hiss perjury case, was revealed today as a warm admirer of Hiss.

In fact, so highly does Patterson esteem the former State Department official that last Aug. 6, the day after the charges of espionage were announced, he wrote Hiss a letter of support.

"This is just a line to say that the stories in the press this morning have not made the slightest dent in my trust and confidence in you.

You and Clark M. Halberger headed the organization of the Committee for the Marshall Plan which was definitely 100 percent from the 'Jury Box.'

"I have that in mind as well as many other things.

"With warm regards,
"I am sincerely yours,
"Robert P. Patterson."

REVEALED JURY

Patterson, a lawyer now is president of the Association of the Bar of the City of New York, a group which refused to endorse Kaufman for the bench when he was nominated by President Truman. Patterson was not president of the organization at that time, however.

Despite the fact that the Hiss jury stood 8 to 1 for conviction, Patterson blamed his being to Kaufman's defense as one of a Communist investigation of the Hiss trial was proposed.

Patterson made known that by

Continued on Page 2, Column 4

Reveal Note By Patterson Backing Hiss

Continued from First Page

was against an investigation of Kaufman and said he thought Kaufman's rulings in the case were "eminently fair."

But the opinions of Patterson, who was not in court, were at wide variance with members of the jury who were convinced that Hiss was guilty of perjury growing out of his alleged link with a Communist spy ring.

A check into Patterson's past gave added significance to his present stand. When Patterson, a New Deal Republican, became Secretary of War, Kaufman was put on the legal staff of the committee which "investigated" Pearl Harbor.

So suspicious of a white-wash were Republican members of the committee that they organized a counter legal-staff to check on the activities of Kaufman and others.

While the link between Patterson and Kaufman, and Patterson and Hiss was disclosed, another significant sidelight cropped up.

This was the transcript of the secret objections registered by Assistant U. S. Attorney Murphy in the presence of Dr. Carl Singer, psychiatrist and prospective witness at defense counsel table during the trial.

MURPHY'S OBJECTION

One of Murphy's arguments said:

"I think it (the plea) has reached Hollywood proportions now with the doctor sitting right there in the courtroom, and I think it is an insult to every lawyer in the court.

"Furthermore it intimidates the witness (Whittaker Chambers) and it is an inference that perhaps there is something mentally wrong which is not answerable to anyone else."

Kaufman, in ruling that Singer would be permitted in the courtroom said he would exclude all witnesses, "although I will not exclude the doctor on the representation of Mr. Stryker that he is going to call him as a witness.

Subsequently, Kaufman permitted Stryker to ask a 45-minute hypothetical question of Singer which summarized all the sordid aspects of Chambers' career.

Although Kaufman ruled out an answer, Murphy protested that "the damage is done."

Kaufman was also censured today by members of the Hiss jury who attacked his friendly attitude towards U. S. Supreme Court Justice Frankfurter and Reed when they appeared as character witnesses.

One juror who criticized Kaufman was Allen M. Mabe, 1470 Parkchester rd., Bronx.

Letter Reveals Patterson Faith In Hiss Loyalty

By VICTOR LASKY,

World-Telegram Staff Writer.

As Robert P. Patterson, president of the Assn. of the Bar of the City of New York, again decried Congressional criticism of Federal Judge Samuel H. Kaufman's handling of the Alger Hiss trial, the World-Telegram learned exclusively today that Mr. Patterson had informed Mr. Hiss last year that Whittaker Chambers' charges "have not made the slightest dent in my trust and confidence in you."

Mr. Patterson, former Secretary of War, issued another statement today cautioning Congress against the proposal of Reps. Richard Nixon (R., Calif.) and Harold H. Velde (R., Ill.) that Judge Kaufman's alleged bias in favor of Mr. Hiss at the perjury trial, which ended Friday night with a hung jury be investigated.

Meanwhile, a transcript of the trial disclosed that Judge Kaufman permitted the presence of a defense psychiatrist at the trial over the bitter objections of Thomas P. Murphy, chief government prosecutor. The psychiatrist, Dr. Carl A. L. Binger, took the stand as a defense witness.

How Delivered.

Judge Kaufman permitted Lloyd Paul Stryker, Mr. Hiss' attorney, to read a 45-minute hypothetical question to Dr. Binger. The question summarized all the sordid aspects of Mr. Chambers' life and career. Then Judge Kaufman refused to allow the answer. But "the damage has been done," Mr. Murphy insisted.

The trial transcript discloses that early in the trial Mr. Murphy, within the judge's chamber, declared:

"... I'm going to ask now of Your Honor that you exclude all witnesses, including the doctor who's sitting there."

Took Notes in Court.

Dr. Binger had sat within the well of the court, taking copious notes of Mr. Chambers' behavior on the witness stand.

"I think," continued Mr. Murphy, "it has reached Hollywood proportions now with the doctor sitting right there in the courtroom, and I think it is an insult to every lawyer in the court."

"Furthermore, it intimidates

Letter Reveals Patterson's Faith in Hiss

Head of City's Bar Rebukes Congress Critics of Kaufman

(Continued from Page One)

the witness and it is an inference before the jury that perhaps there is something mentally wrong with his witness which is not observable to anybody else."

To this Judge Kaufman replied, according to the record:

"Well, Mr. Murphy, on that subject I have a memorandum from Mr. Stryker indicating the competency of such testimony. I am in no way directing that this witness be submitted to examination, however, and I think I will exclude all witnesses, although I will not exclude the doctor, on the representation of Mr. Stryker that he probably is going to call him as a witness."

This incident was one of six alleged instances of impropriety in Judge Kaufman's handling of the Hiss case cited in a so-called bill of particulars by Mr. Velde.

Among them was the alleged refusal of the judge to act on FBI reports indicating Hubert E. James, the jury foreman, came to the trial with a fixed mind concerning Mr. Hiss' innocence. Mr. James was among the four jurors who held out for acquittal.

Today Judge Kaufman told the World-Telegram he planned to confer with other judges "to determine whether I should reply to Congressman Velde's bill of particulars." Judge Kaufman said he was aware of the storm building up over his conduct of the trial, "but I repeat that the record speaks for itself."

"If I do reply to the accusations," Judge Kaufman emphasized, "I will do so from the record."

Mr. Patterson, who said that Judge Kaufman's rulings during the six-week trial seemed to him "eminently fair," said the proposed investigation would end the independence of the judiciary in this country.

"I can not believe," he added, "that responsible members of Congress are serious in suggesting or proposing that whenever they do not agree with the ruling of a judge in a trial, he could be hauled before a Congressional committee and investigated."

Mr. Velde, who is a former judge, a former FBI agent and with Mr. Nixon is a member of the House Un-American Activities Committee, interpreted Mr. Patterson's position as an "attempt to rebuke members of Congress who see fit to raise questions as to Judge Kaufman's lack of judicial conduct." Mr. Velde said the Constitution provides that Congress keep tabs on the conduct of federal judges.

The World-Telegram learned that Mr. Patterson, a leading Republican, made known his sympathy for Mr. Hiss in a personal letter dated Aug. 4, 1944, a day after Mr. Chambers, then a senior editor of Time, told the House group that he had headed an underground Communist ring in prewar Washington in which Mr. Hiss allegedly was a leading participant.

Mr. Patterson had been associated with Mr. Hiss in the formation of the Citizens Committee for the Marshall Plan, headed by Henry L. Stimson.

In Congress, the controversy boiled anew, with one House member defending Judge Kaufman as a distinguished and able jurist, and a second charging he "reflected discredit upon the entire bench."

Publicly Attack Appealed.

A third, Rep. Wayne L. Hayes (D., Ohio) was loudly applauded when he asked: "Is it the function of the Un-American Activities Committee . . . to make headlines at any price? He demanded to know if "the feverish desire of some members of Congress to see their names in print" was endangering the traditional balance between the three major branches of federal government.

Rep. E. E. Cox (D., Ga.) denouncing Judge Kaufman's conduct of the trial, said it contrasted sharply with the "real and energy" of Mr. Murphy, chief government prosecutor, who "almost single-handedly fought against what was apparently a conspiracy to cheat the law and liberate a traitor."

Rep. Abraham Miller (D., N. Y.), defending Judge Kaufman, said the attacks were unfair because the judge could not fight back since the case is to be retried and "it would be unethical for him to comment."

Patterson's Note to Hiss

Following is a letter sent last August by Robert P. Patterson,



president of the Assn. of the Bar of the City of New York and former Secretary of War, to Alger Hiss a day after Whittaker Chambers accused the former State Department official of being a

Member of a Communist underground ring in Washington.

Patterson, Belmont and Webb

One Wall St.

New York 5, N. Y.

Aug. 4, 1948

Dear Alger:

This is just a line to say that the stories in the press this morning have not made the slightest dent in my trust and confidence in you.

You and Clark Hoebelberger started the organization of the Committee for the Marshall Plan which was certainly 100 degrees from the 'party line.'

I have that in mind as well as many other things.

With warm regards,
I am sincerely yours,
"Robert P. Patterson."

Patterson No Stranger To Kaufman and Hiss

By LESLIE GOULD
Financial Editor

The action of Robert P. Patterson, former Secretary of War, in gratuitously taking the stand in defense of Federal Judge Samuel H. Kaufman's conduct of the Alger Hiss trial is not surprising.

It is more of the same kind of performance put on by Supreme Court Justice Felix Frankfurter, who was a "character" witness for Hiss.

Like Justice Frankfurter, Judge Patterson—he once sat on the bench—can hardly be classed as a disinterested witness.

Quite aside from a tie up to Frankfurter, Judge Patterson, who is now in private practice in Wall Street, has reason for being grateful to Kaufman.



Patterson was running the War Department under the decrepit Henry Stimson who was put in the No. 1 spot for window dressing for President Roosevelt by none other than Frankfurter. The wily Frankfurter has done more than any single individual to lower the prestige of the country's highest tribunal and further brought that body into public ridicule by his disgusting performance in the Hiss trial.

Patterson was to all intents and purposes really the boss of the War Department at the time of Pearl Harbor. Kaufman was counsel to the New Deal Congressional committee that whitewashed the War Department in the Pearl Harbor scandal. That is point No. 1 as to Patterson.

Point No. 2 on Judge Patterson is that he at one time was palmy wally with Alger Hiss enough so that last August he wrote Hiss affirming "my trust and confidence in you."

It is significant that while the Hiss defense aided and abetted by Frankfurter was bewhiskering-around for character witnesses for the one time State Department official, Judge Patterson did not step forward as did the sick Felix.

Also significant is that Hiss' immediate superior in the State Department—Francis B. Sayre—did not testify as a Hiss character witness.

Judge Patterson today refused to see this reporter who observed Kaufman in action during the trial. He was "too busy."

Two questions we wanted to put to him:

Did Judge Patterson attend any sessions of the trial? And if so what ones?

Did Judge Patterson read the transcript of the trial? And if so what parts?

• • •
If he didn't attend the trial and hear first hand the tone of Kaufman's voice and his general behavior, including his smirking, his head shaking and swinging around of his chair after asking the chief government witness—Whittaker Chambers—questions, Judge Patterson is in no position to pass on Kaufman's conduct.

It probably can be assumed that Judge Patterson never attended the trial nor read the record from this sentence in his statement defending Kaufman: "His (Kaufman's) rulings in the Hiss trial and his charge to the jury, as reported in the public press, struck me as eminently fair."

• • •
In the House Un-American Activities Committee, it was testified by Gregory Silvermaster, accused of being a Soviet secret agent, and Lauchlin Currie, at one time on President Roosevelt's staff, that Judge Patterson interceded for Silvermaster.

Silvermaster was branded in a Naval Intelligence report as "ineligible for Government service," and he testified that when this was blocking his joining the Board of Economic Warfare in Washington, Currie talked to Patterson. He said that Secretary Patterson wrote a letter to Mills Perkins, head of B.E.W., in his behalf.

Currie before the same committee testified he phoned Patterson to have Silvermaster's case reviewed, and that Patterson later informed him that the adverse report on Silvermaster had been withdrawn.

Silvermaster, a native of Russia, denied he was a Soviet secret agent but refused to tell

whether he was or was not a Communist on the grounds "any answer I might make might be taken as self-incriminatory."

• • •
Patterson is now head of the Association of the Bar of New York City. Before he assumed that office, the Association opposed the nomination of Samuel Kaufman to the federal bench. As did the New York State Bar Association and the American Bar Association. The New York County Lawyers Association was the only major bar group to endorse Kaufman, and the president of that organization recently was appointed by Judge Kaufman as trustee of the Third Ave. Transit Co. This trusteeship is estimated to be worth around \$250,000.

A Defense of Hiss Trial Jurist

Congressman Multer Answers Critics Of Judge Kaufman's Conduct of Case

By Bert Andrews

WASHINGTON.

A POINT-BY-POINT defense of Judge Samuel H. Kaufman's conduct of the perjury trial of Alger Hiss was offered today by Representative Abraham J. Multer, Democrat, of Brooklyn.

Mr. Multer first stepped into the controversy with a brief speech on the floor of the House in which he castigated other members of Congress who had criticized Judge Kaufman. The forty-eight-year-old former trial lawyer, who was elected to the Eightieth Congress in 1947, amplified his comments in an interview.

He said he had known Judge Kaufman for many years and had been his adversary in some trials but had never tried a case before him.

He discussed many of the specific criticisms leveled at Judge Kaufman and began with general comment on the allegation that Judge Kaufman showed bias in his over-all conduct of the trial.

"From my experience of almost a quarter of a century as a trial lawyer, I would say that such charges were based upon a misconception of what transpired at the trial and on some distortions that crept into press and radio accounts of the trial," Mr. Multer said. "Under Federal court practices a trial judge has the right—and sometimes the duty—to give his opinion of the evidence. The only restriction on that right is that the jurors must be advised that they are the ones who must determine the facts and that the judge's opinion is only for their guidance."

MR. MULTER was next asked to comment on criticism from observers who noted that Judge Kaufman rose from the bench to greet Associate Justices Felix Frankfurter and Stanley Reed of the Supreme Court when they appeared as character witnesses for Mr. Hiss.

"I cannot recall a single instance, during my years as a trial

lawyer, where a judge did not act exactly as Judge Kaufman did when his court was graced with distinguished public figures," Mr. Multer said. "There was absolutely no impropriety in his action in so greeting them, and I do not believe it had the slightest effect on the jury."

"Knowing the defendant as well as they did, it is obvious that Justices Frankfurter and Reed would feel called upon to disqualify themselves in the event the case ever reached the Supreme Court. They had the same right to testify that any American has."

Mr. Multer was asked to comment on suggestions that Judge Kaufman should have disqualified the foreman of the jury because of rumors that the foreman had made up his mind about the case early in the trial. He insisted that the trial record was clear on that point.

"A judge makes rulings when they are asked for by one side or the other," he said. "The record shows that the assistant district attorney plainly suggested that the trial should proceed, and that after the trial the judge should take action if he believed the foreman had violated instructions with regard to the way jurors should conduct themselves. It was not up to the judge to dismiss the juror unless one side or the other asked him to do so."

A QUESTION as to Judge Kaufman's action in excluding testimony of certain witnesses brought the following comment from Mr. Multer:

"No one but an experienced lawyer should pretend to pass upon the correctness of such a ruling. Even a police court judge knows that it is his duty to exclude evidence upon collateral issues that do not relate to the specific charge. Alger Hiss was being tried on perjury charges—and on perjury alone. Even if he was guilty of treason—and I do not in any way intimate that he was—he was not on trial on that charge. Therefore, any evidence that did not relate specifically to the

charges in the indictment should not have been admitted.

"I know that laymen are often puzzled by these fine distinctions. But the issue was: Did Chambers tell the truth? Or did Hiss tell the truth?"

"Rulings on evidence are highly technical. But they have become part of our trial law as a result of hundreds of years of experience, and no one—least of all a member of a legislative body—has the right to ask that technicalities be waived unless and until established procedure is changed by law."

MR. MULTER also assailed critics who contended that Judge Kaufman should not have allowed defense counsel to examine the minutes of the grand jury that indicted Mr. Hiss.

"Grand jury records are usually secret," he said. "But there are exceptions even to that rule. The law requires that the grand jury minutes be made available to the defendant when it can be demonstrated that an important witness made one statement before the grand jury and conflicting statements elsewhere. Judge Kaufman was entirely within his rights in ruling that the defense could look at some of the minutes. In fact, if he had not permitted the defense to have access to them, he would have committed reversible error in the event there had been a conviction."

Commenting on the fact that five of the twelve jurors, in interviews after the trial, said they believed Judge Kaufman showed prejudice while he was presiding, Mr. Multer said:

"I believe that if it hadn't been for all the fuss and furor, the jurors would never have made such allegations. I might point out that the jurors were unanimous in saying that they paid no attention, during their deliberations, to the attitude and opinion of the judge. When you analyze the statements some of them did make, you find that they are now trying to act as an appellate court and to pass upon matters of law with which they cannot possibly be familiar."

Hiss Trial Judge Denounced in House Speech

Keefe, of Wisconsin, Urges
Full Investigation Into
Kaufman's Judicial Acts

By Bert Andrews

WASHINGTON, July 18.—The most blistering attack yet made in Congress on the conduct of Judge Samuel H. Kaufman at the Alger Hiss perjury trial came today from Representative Frank B. Keefe, Republican, of Wisconsin, who is serving his sixth term in the House and was once Prosecuting Attorney in Winnebago County.

The sixty-one-year-old Mr. Keefe, pointing out that the House has the sole power of impeachment, declared that its Judiciary Committee should make "a minute examination" of "all the facts and circumstances relating to Judge Kaufman, particularly with reference to this important trial."

He said, in a long speech on the floor, that the trial record shows "how Judge Kaufman intervened all through this trial so as to throw his protecting arm around Mr. Hiss and prevent any disclosure of his connections with the Communist spy rings."

He assailed Judge Kaufman for stepping down from the bench in United States District Court in New York to greet Associate Justices Stanley F. Reed and Felix Frankfurter when they appeared as character witnesses for Mr. Hiss.

"It was not only an act of bias on the part of the judge for the defendant," Mr. Keefe said, "but it was degrading to the dignity of the bench."

Criticism of Justice

"And I do not think I need to add, because I am certain that every colleague of mine in the House feels as I do, that neither Justice Frankfurter nor Justice Reed proved himself worthy of the highest tribunal in the land when he stepped down from his bench to appear as a witness for the defendant Hiss."

"Indeed, on that day, June 22, 1949, three jurists—Kaufman, Frankfurter and Reed—wrote a lamentable page into the records of our great judicial system."

Mr. Keefe delved into much of Judge Kaufman's past history, including his one-time association in a law firm with Representative Emanuel Celler, Democrat, of New York.

When Mr. Keefe finished his address, he was greeted with applause. Several members walked over to him to shake his hand. Mr. Celler, chairman of the Judiciary Committee, took the floor to say: "Of course, if a resolution of impeachment should come before my committee, I would immediately disqualify myself because Judge Kaufman was a partner of mine over fifteen years ago."

Mr. Keefe vigorously disputed colleagues who have suggested that members of the Congress ought not to criticize the judge. He acknowledged it might be well for the Judiciary Committee and the House to withhold action pending final disposition of the case. But he said that Congress has the duty to inquire into the conduct of judges when such an inquiry seems advisable.

"We do have a responsibility, and it cannot be shifted under the Constitution," he said.

Mr. Keefe said Congress should not attempt to pass upon the correctness of the rulings on matters of law by the trial judge, unless they were "clearly part of a whole plan of judicial prejudice as to render him unfit to pass upon disputed questions of law."

"Judge Kaufman and his defenders state that they will refer to the record to show his lack of prejudice or partiality," Mr. Keefe said.

"But the record will not show his facial expressions, the inflection of his voice, his gestures and hand movements, his

about on the bench, his whipping his chair around with his back to the witness when he was displeased with the testimony.

"Every attendant at the trial noted that in the first two days that Whittaker Chambers was on the stand Judge Kaufman addressed him in tones of contempt, indicating such scornful attitudes and airs of incredulity and disbelief that it immediately became the talk of the courtroom and eventually of the legal profession in New York City.

"These are all things that took place before the jury and they indicated an air of disgust and doubt on the part of the judge that the printed records does and cannot disclose."

Reviews History of Case

Mr. Keefe reviewed the history of the case in detail.

Item.—"Charges and rumors were rife that even though this case was being presented by the United States District Attorney's office, Mr. Hiss would never be convicted because of powerful influences from high places that were working to secure his acquittal. . . . New York and Washington were full of rumors that the 'fix' was in."

Item.—"It is significant that in May, 1949, after the case had been postponed six times, Judge Kaufman in the usual rotation among the judges of that responsibility was in charge of the criminal calendar. Among these cases was the one charging Alger Hiss with perjury. Judge Kaufman was exceedingly busy at the time in his own court, and yet in the exercise of a seldom-used prerogative, he assigned the Hiss case to himself."

Item.—"It is a well known fact that the defense in an important criminal case always seeks, if possible, to have the case heard by a 'favorable' judge. . . . I can well imagine that the defense attorney, Lloyd Paul Stryker, was exceedingly gratified when he learned that the Hiss trial was to be heard by Judge Kaufman, whose occupancy of the trial bench he had played such a prominent part in promoting." (This was a reference to the fact that Mr. Stryker was chairman of the Judiciary Committee of the New York County Lawyers Association, which indorsed Judge Kaufman for the bench after four other major associations had refused to indorse him.)

Olga Rubenstein Case

Item.—"There are a number of hearsay items of a questionable nature in Kaufman's professional record as an attorney, but the only highly unethical item that could be checked and proved involves an effort in 1943 in behalf of Serge Rubenstein, notorious convicted draft dodger." Mr. Keefe said that Mr. Kaufman went to the apartment of David Brady, one of the top men in Selective Service in New York in 1943, and asked him about the Rubenstein case. "Brady, a man whose record appears excellent, halted Kaufman and reprimanded him for even mentioning the subject of a draft case," Mr. Keefe continued. "Kaufman left promptly. Brady repeats the reprimand in detail and seems very proud of it. Kaufman confirms the visit but claims that Brady misunderstood him."

Item.—"Kaufman, though the years, has been mainly an attorney in corporate matters, receivership and bankruptcy cases of a financial nature. He has had a very large practice in immigration matters, along with several criminal cases mostly of a character not lending itself to eventual judicial appointment."

Item.—Mr. Keefe said that records show that neither Judge Kaufman nor any one associated with him contributed to the Democratic National Committee until July, 1948, one month after his interim appointment to the bench. Mr. Keefe said that from July to September, 1948, \$2,000 in contributions were made by Judge Kaufman's brother, Judge Kaufman, and that \$500 each was contributed by Jesse Cline and Mr. Robert Gallop, Judge Kaufman's law partners. "I wish to call attention to one other significant fact," Mr. Keefe said. "It is common knowledge that Judge Kauf-

man was a generous contributor but nowhere do his contributions appear where an official record is required."

Item.—Mr. Keefe said that when he was a member of the Fear Harbor Investigating committee, Mr. Kaufman appeared as an assistant to the committee's general counsel, Seth Richardson. "I soon learned," Mr. Keefe said, "that he (Mr. Kaufman) intended to try to induce findings by the committee that would completely whitewash the Administration from any responsibility in connection with that tragic event. I cite this only to demonstrate that in my judgment his appraisal of evidence was always in line with preconceived prejudices that were exceedingly apparent."

Mr. Keefe reiterated many of the charges of prejudice at the trial that have been made by other members of Congress. Summed up, they were that Judge Kaufman barred witnesses who might have helped the government's case and displayed a friendly attitude toward defense witnesses. He said they all "disclosed the very obvious prejudice of the trial judge."

Bill Would Cut Justice

WASHINGTON, July 18 (AP)—Representative Kenneth J. Keating, Republican, of New York introduced today legislation which would prohibit justices of the Supreme Court from testifying as to the character or reputation of any person or matters of opinion in any court of the United States.

New York Times, July 14, 1949

Kaufman Is Accused of Attempt To 'Intimidate' Press in Hiss Trial

Special to The New York Times

WASHINGTON, July 13 — Federal Judge Samuel H. Kaufman of New York was accused from the House floor today of attempting to "intimidate" the press at the recent trial on perjury counts of Alger Hiss, former State Department official. The charge was made by Representative W. Kingsland Macy, Republican, of New York.

At the same time the House was advised by Representative Lawrence H. Smith, Republican, of Wisconsin, that he had introduced a bill that had a bearing on the conduct of the Hiss trial. Mr. Smith's bill would prohibit the compelling of Justices of the Supreme Court or other Federal Justices to appear as character witnesses at trials. Associate Justices Stanley F. Reed and Felix Frankfurter were character witnesses for the defense in the Hiss trial.

"I do not know," Representative Smith told the House, "if these men appeared voluntarily or by subpoena, but the fact remains that they are now disqualified from participating in this case in the event it should reach the Supreme Court on appeal. Appearance by judges of our Federal courts in any litigation is, in my opinion, against the public interest. Further, it is beneath the dignity of those courts."

Representative Macy said he wanted to "inform the House of a specific example of Judge Kaufman's conduct in which he tried to intimidate the press."

"The judge said from the bench,"

Mr. Macy asserted, "that it was 'unfortunate' that there was so much 'comment' in the press about the trial. He said reporters and columnists had no right to express their views on the trial, and I quote:

"What the court can do about it, I do not know, but after the conclusion of this trial that subject should be considered, either by the courts or through some other method . . . What did he mean by 'some other method'? What did he mean by such a challenge?"

"I label such an unprecedented and unheard of statement by a Federal court judge a direct threat to the freedom of the press. I am proud to say that the press was not intimidated by this unusual statement by Judge Kaufman. And Congress has not been intimidated either by political attempts to silence criticism of his bias for Alger Hiss.

"It is the duty and obligation of the press to watch the courts and the judges the same as it is for the press to keep an eye on the operations of all American institutions. I agree with my colleagues that Judge Kaufman's conduct reflected discredit upon the bench. Furthermore, I accept the Judge's challenge to muzzle the press.

"Almost a week has passed since the trial ended, and the Judge has not carried out his threat. I trust that his wiser colleagues on the bench have pointed out his indiscretion to him. What is his next step going to be?"

Bill Bars Justices as Witnesses On Character as at Hiss Trial

Special to The New York Times

WASHINGTON, July 16—A bill to prohibit Justices of the United States Supreme Court from appearing as character witnesses in any action in any court in the country will be introduced Monday by Representative Kenneth E. Keating, Republican, of New York. He is a member of the Judiciary Committee.

In a statement today Mr. Keating said he felt his bill was made necessary by the action of Justices Felix Frankfurter and Stanley F. Reed in appearing as witnesses during the recent trial of Alger Hiss for perjury in New York.

"Reliance on the proprieties has failed," Mr. Keating said. "Legislation on the subject is the only alternative."

Mr. Keating conceded the admissibility of their testimony but declared that "it is the impropriety

of their appearance which has disturbed the American people, who look with awe and reverence upon our Supreme Court."

The Representative also said that it was his understanding that the two justices appeared voluntarily, and not under subpoena. His bill, he explained, would permit Supreme Court Justices, like other citizens, to testify on facts that might affect the course of justice, but not on the reputation or character of any individual, matters of opinion at best, he asserted.

"Although it is reported that this question has never arisen before since no other Supreme Court Justice in all our history has sought to testify as a character witness in a criminal trial," Mr. Keating said, "it is important that

Continued on Page 14, Column 3

BILL LIMITS JUDGES AS TRIAL WITNESSES

Continued from Page 1

a precedent for such action in the future be not established."

In order that such a law as he advocates should not interfere with the plans of counsel for Mr. Hiss, Mr. Keating will specify in his bill that its provisions take effect on July 1, 1950.

Representative Harold H. Velde, Republican, of Illinois, a member of the Un-American Activities Committee, said he would support Mr. Keating's bill. He stressed the possibility that all the Justices of the Supreme Court might have to disqualify themselves, as he considers Justices Frankfurter and Reed would have to do on any appeal of the Hiss case, if they had

all appeared as character witnesses.

"This process could be followed in every espionage case or war frauds trial, of which many are now in process of adjudication," said Mr. Velde. "It could hamstring the whole judicial process."

He also said he intended to push his demand for a Congressional investigation of the conduct of the Hiss trial by Judge Samuel H. Kaufman.

"Some people think I am pulling a bluff," he added "but they are very badly mistaken. That thing in New York stank to high heaven as a travesty on justice. Congress cannot afford to ignore it."

Welles Arrives in France

LE HAVRE, France, July 16 (Reuters)—Sumner Welles, former United States Secretary of State, arrived today aboard the French liner De Grasse on his way to spend six months' convalescence in Switzerland. Mr. Welles told reporters, "I am very optimistic about the international situation."

New York Herald Tribune, Sunday, July 17, 1949

Bill to Bar High Court Justices As Character Witnesses Planned

WASHINGTON, July 16 (UP).—Two Republican legislators charged tonight that Supreme Court Justices Stanley F. Reed and Felix Frankfurter "shocked the nation" when they appeared as character witnesses at the Alger Hiss perjury trial.

Representatives Kenneth B. Keating, of New York, and Harold H. Velde, of Illinois, said the two justices caused the Supreme Court "extreme embarrassment." They said repetition of such conduct could lead to a "paralysis" of the judicial system.

Mr. Keating, a member of the House Judiciary Committee, announced he will introduce a bill on Monday to prohibit Supreme Court justices from offering character testimony at any trial.

"They should not, of course, be barred from giving evidence as to facts in any controversy of which they may have knowledge, he asserted.

Justices Reed and Frankfurter both testified to the "good character" of Mr. Hiss during his recent perjury trial in New York. The trial ended in a jury deadlock and the case will be retried later.

Representative Velde, a member

of the House Committee on Un-American Activities, said the Reed-Frankfurter testimony, if it becomes a precedent could "hamstring the whole judicial process." He said the two justices will have to disqualify themselves if the Hiss case reaches the Supreme Court. Men on trial in lower courts could subpoena every Supreme Court justice to give character testimony, he said.

"Then, when the case reached the Supreme Court, every justice would have to disqualify himself," he said. "In effect, we would have no Supreme Court and the ends of justice would be defeated."

Mr. Velde also assured reporters that he intends to "follow through" on his demand for a Congressional investigation of Federal Judge Samuel F. Kaufman. He accuses Judge Kaufman, who presided at the Hiss trial, of favoring the defense.

"Some people seem to think that I am pulling a bluff in the case of Judge Kaufman," he said. "They are very much mistaken. I intend to follow this matter through to the end. That thing in New York stank to high heaven and was a travesty on justice. Congress cannot afford to ignore it."

WHY I SPIED for the COMMUNISTS

By Henry Julian Wadleigh

The day after my session with the House Committee on Un-American Activities I had to return to New York for another appearance before the Grand Jury. My name was now on the front page of every newspaper. My lawyer in Washington had refused to represent me any longer. I was feeling helpless and desperate.

I had practically made up my mind to tell my whole story to the Department of Justice and to speak freely to the Grand Jury. But I was afraid of making another precipitate decision, and I was determined to get legal advice before taking any action at all.

On my arrival in New York, I called the American Civil Liberties Union to ask for help in finding a lawyer. Late the same afternoon I was talking to Mr. Raymond L. Wise, an attorney and former director of the ACLU, at his office on Broad Street.

The advice I got from Wise confirmed my decision. In order to make his own position clear he added that he would not care to represent me were I to decide otherwise. "I want it to be understood," he said, "that I'm interested in helping you and helping the Government."

That same evening I gave the FBI a statement supplementing and correcting my first statement.

The next morning I spoke freely to the Grand Jury. Telling my story to them was a painful experience but an utterly different one from my appearance before the House Committee. I felt that the members of the jury were honest men and women seeking the truth in the interest of justice. I felt that probably it was quite impossible for them to understand how a person could be prompted by his conscience to do what I had done. But that did not diminish my feeling of respect for them. I told them my story with all the emotions of a repentant sinner.

I was in the Grand Jury room twice after that and I spent several days in the waiting room for witnesses. I never saw Whitaker Chambers there. He was kept, understandably, in a room apart from those against whom he had made public accusations.

"Harold Walks In"

One day, when I was in the waiting room, Harold walked in quietly, crossed the room, sat down in a chair and lit his pipe. I did not see him look at me once.

As soon as I caught sight of him, a ghastly feeling of guilt came over me. I must have shown it, because I noticed that Alger Hiss was studying my face with an intense interest that even he was not able to hide. Harold sat there utterly without sign of emotion, like a person sitting in the waiting room of a station. I took a book out of the bag I had with me, and held it up to hide my face. I turned over the pages slowly, pretending to read.

After about an hour, Harold was called into the jury room. Then Alger Hiss went out into the hall for a few seconds, came back and announced, "That was Harold Carpenter,

book review editor of the Daily Worker." That was how I first came to know Harold's real name. (Later I learned at the Hiss trial that Carpenter was my first "contact" with the Soviet spy network, the man to whom I passed secret papers before Chambers came into the picture.)

Shortly after that, I went out for lunch. As I walked out of the building, I felt utterly miserable. Twice now, I had violated a trust: first, two years ago, and again now. I had never wanted to be that kind of a person.

After my return home, I tried to get back to work on my novel, but felt too discouraged to write efficiently.

I Avoid Friends

I found that some of my friends were convinced of my innocence, and that made me want to avoid all my friends. It made me feel embarrassed to accept friendship from anyone who, if they knew the truth, might not feel so friendly. I sometimes hoped that my story would come out at the Hiss trial, as it did, in order to relieve some of this embarrassment.

At other times I dreaded my possible appearance at the Hiss trial as a terrible ordeal. Then, as the weeks passed, I came to see this crisis of my life in a broader perspective, and when finally the time came, I was ready to tell my story in public without disturbing or destabilizing emotions.

During this time, my views on Chambers changed from angry resentment to a more dispassionate appraisal. I began to realize that his appearance before the House Committee might not have been entirely voluntary.

A new interpretation of the pamphlet incident occurred to me. This was no more than a lunch, but I think it may have been a good lunch. Chambers had contacted from the committee the fact that he had documentary evidence in his possession. He brought out the documents only when Hiss had said forced him to do so. That would certainly have made the committee extremely angry if he had not justified them with the pamphlet case. He was hardly in a position to

Continued on Page 21

WHY I SPIED for the COMMUNISTS

Continued from Page 4

defy the committee, as he appeared them by giving some of the documents to them.

Why the Pumpkin?

Why did he put them in the pumpkin? His own explanation was that he was afraid the Communists would arise them. Did he really expect the Communists to enter his house by force and search it? Was the pumpkin chosen simply as a good hiding place and not as a symbol? It was not so long after Hallowe'en, the documents were more than 10 years old, and the House Committee likes to make people's flesh creep. I had known Chambers as a man with a sly, pockish sense of humor. Might he not be appearing his own conscience by subtly poking fun at the committee?

The Hiss trial got under way in June. I still did not know whether I would be called to testify. As I read about Chambers' testimony in the papers, my sympathies for him were increased by the constant references to "the pudgy witness." In this case, I wondered, going to be tried in the papers on the basis of which of the two looks best?

After Lloyd Paul Stryker's withering cross-examination of Chambers. My neighbors, and I gathered, almost the whole public, now regarded the "pudgy witness" as a demoralized egg. If I were to appear as a witness for the prosecution, would Stryker do the same kind of thing to me? I began to feel that I would prefer not to testify. But if I should have to go on the witness stand, then I would concentrate all my efforts on appearing calm, self-confident and unemotional.

I was put on the stand Sunday, on Thursday, June 16.

The reason for my being called was not emphasized much in the newspapers. It was simply this:

The defense had suggested that I might have been the source of some or all of the documents that Chambers said he got from Hiss. Most of these were documents that could not have come to me in the normal course of State Dept. business, and the defense made the suggestion—which was astonishing to me—that I might have pilfered the documents from the office in which Hiss worked.

I was called in by the prosecution to rebut this suggestion, to state whether or not I had given these particular documents to Chambers. The fact that I had given some documents to Chambers was not in itself relevant, but it had to be included in my testimony as background.

When I took the stand, Asst. U. S. Atty. Thomas E. Murphy came quickly to the question of my underground activities. For a moment I thought my voice would falter, but I went through the ordeal successfully, and my self-confidence increased.

Story Was Out

My story was out. The most newsworthy part of my testimony was over. The part that was directly relevant to the trial was to come next.

Murphy showed me various documents from the Chambers collection and asked me if I had seen them when I was in the State Dept. I was sure that most of them I had not seen. However, there were a few that I might possibly have seen and given to Chambers.

When Stryker rose from his seat to ~~give~~ cross-examination, he seemed to hesitate, and I lost my fear. First he asked me whether I had ever pilfered any documents that did not come to me in the normal course of State Dept. business. I replied that I had never done anything so foolish. Then he wanted to know my motives for not doing so. Was it due to scruples of conscience? I replied that I had never contemplated doing such a thing and that one can have scruples of conscience only against doing something one contemplates. He had little more to say. My part in the trial was over.

When I came out of the court

room a reporter covering the trial for one of the Hearst papers congratulated me warmly. This made me feel uneasy. For, with due respect to the reporter, I do not agree with his viewpoint or the views of the paper for which he works. I was afraid that the implications of my testimony might be misinterpreted, that people would think I had joined the ranks of the extreme reactionaries.

There are many ex-Communists who, in the bitterness of their disillusionment, have plunged headlong into the opposite extreme. To me, one extreme is enough for one lifetime. In fact, it is more than enough. Basically, my views are the same now as they were before I became associated with the Communist movement. I belong to the non-Communist left.

My break away from the Communists in action was sudden. It was forced on me by Chambers' defection. But in terms of sympathies, the change was not sudden. I have already described my state of bewilderment and confusion following the Nazi-Soviet pact. Later, when the Russians became our allies in the war, I admired and liked them as allies. After the war I felt that the most important aim of our foreign policy must be to maintain friendly relations with the Russians, in order to avoid another and more disastrous war. I disapproved of many things that were done by the Russian government, but I also disapproved of many anti-Russian actions of our own government.

The Communist coup in Czechoslovakia in March, 1948, was a disgusting tragedy. I thoroughly disapproved of it, but I felt that some part of the blame should fall on our own government for having provoked the Russians to increasingly violent action.

Final Thoughts

Then, toward the end of 1948, something happened that made me lose all my respect for the Russian leaders. It was their setting up of a standard of orthodoxy in the sciences of biology and the persecution of geneticists who did not follow the party line in this regard. No matter what might be the merits of the usual points of view in genetics, the action of the Russian authorities was stupid and bigoted.

To my way of thinking, there is little or nothing in heaven or earth more sacred than science. One of my reasons for admiring the Soviet leaders had been that they, more than anyone else, seemed to appreciate the importance of science for the happiness of mankind. Now they are struggling with orthodoxy one of the most promising branches of science, one that should do much to solve the world's all-important food problem.

Nevertheless, I feel that much of the anti-Russian feeling that has grown up in this country is one-sided and hysterical. Furthermore, we must learn to live in the same world with the Russians. A war in the atomic age is bound to be a terrible disaster for both sides.

As regards the Communist Party in the United States, we must distinguish the two phases of its activities. It operates as a political movement, and it also operates as a recruiting agency for spies.

In their political activities, the Communists do not seem to me to be nearly as much of a menace as are those people who use

anti-Communism as a pretext for destroying our civil liberties. I cannot believe that the best method of defending our liberties is to whittle them away.

Freedom Is Best Defense

Furthermore, I believe that our freedoms are in themselves the best defense against the political menace of Communism. This belief is not based on mere theoretical reasoning. It is based on the world's experience with Communism. The Communists have achieved their great political successes only where freedom has been absent—in Russia and China where civil liberties never existed; in European countries when civil liberties were destroyed under Nazi occupation during the last war. Where the Communists have been free to preach their doctrines they have not had success. Nor do I see any prospect that they will succeed in this country, so long as we preserve our freedoms. As I said in the first article of this series, Communism is a shade growing

plant. It will not thrive in full sunlight.

As for the spying activities of the Communists, I believe they can be more effectively checked if the party remains out in the open.

These are my views. After the Hearst reporter's handshake I wanted the world to know it.

My strongest personal feeling, however, as I came out of the Courthouse after testifying at the Hiss trial, was that now for the first time in nearly 16 years I was a man with nothing of importance to conceal from anyone. Now, I thought, anyone who wants to can be my friend without being deceived.

As Pegler Sees It

Autopsy on a Weird Journalistic Creation

By WESTROOK PEGLER

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THAT NEURO-PSYCHO-JOURNALISTIC MONSTROSITY, PM, otherwise and more fittingly called PU, is dead and gone after an evil career promoting the Communist line, but its rock lingers and the harm that it wrought in promoting dormant hatreds will be a long time healing.



WESTROOK PEGLER

The angel or sucker of this exploit was a fellow of normal outwardly who gave evidence of sanity in many things, Marshall Field 3d. He came of a disolute background like Eleanor Roosevelt's and like her seemed to feel shame or guilt and a queer mission to atone by having traffic with enemies of good society.

By an oversight which I cannot explain, our normal journalism, spending vast amounts on news and nonsense, has missed an amazing state of affairs concealed behind this manipulation of a rich man with a pliable mind, bubblehead Marshall Field.

Bubblehead Field fell under the influence of a New York lawyer named Louis Weiss. Weiss had represented the current Mrs. Field in a divorce from her preceding husband. He was dealing with enormously rich people with insufficient sense of the evil power of their money and scant appreciation of their own responsibility for the consequences.

Frittered away on yachts, jewels, frivolity and all such standard foibles of the stupid rich, the millions which Field inherited from his grandfather might have done no harm save to himself. But Weiss was a man with a mission and that mission may be surmised from abundant circumstantial evidence.

WEISS WAS A FRIEND OF DR. GREGORY HILBOORG, a Russian psychoanalyst who had taken a background part in the Kerensky revolution in Petrograd. He served for a time as secretary to some member of Kerensky's cabinet.

As to his academic qualifications in the science of medicine and mental inflammations there was, for a time, some question, but a board of his colleagues in New York found his qualifications highly satisfactory and he is now legally permitted to practice, specializing in the inscrutable and rife field of problems of the mind.

Weiss went for Hilboorg and, in due course, got Hilboorg into contact with a middle-aged bubblehead who had money enough at his command and in visible prospect to cause havoc. Bubblehead Field was a fairly personable, fairly athletic, well-behaved hero of the Long Island racing and betting grossing act. He had vague, unreasoned thoughts on poverty and persecution but saw these things vividly and dealt with them with a long fork.

Weiss encouraged Bubblehead to dream of the presidency. Field couldn't argue his points, for he lacked the intelligence or grasp. So a truce evolved by which he continued to frequent the company of people who had the honesty to maintain their rights to their wealth, notwithstanding that they were over-rich parasites on the lower orders. Field didn't give money direct to the poor. He thought it better for them to inflame them to turmoil.

WEISS IS A BROTHER of Carl Weiss King, a lawyer who has specialized in Communist cases for many years. She represented Mrs. Earl Browder in her immigration which the consul in the case condemned as a fraud. This relationship of Marshall Field's mental manager and political guide would have explained and proved much during Bubblehead's frenzied career in journalism in New York.

Carl Weiss King was the law partner of Joseph Brodsky, the counsel of the Communist Party. She has been the principal attorney for the party's causes during most of her professional life.

Brodsky denied on oath before the original Committee on Un-American Activities that he ever had been a member of the Communist Party. But when he died, the Daily Worker, the official Communist paper, saluted him as a departed comrade and a founding father and charter member.

Weiss was a member of the board of PM and frustrated tentative attempts by Bubblehead to get out of the thrall.

Weiss and his wife, whose political emotions are lively and sympathetic with old Bubblehead I, Henry Wallace, have been friends for a long time of Alger Hiss and his wife.

They also were friends of Laurence Duggan, late of the State Department, who was named as one of his "contacts" in the State Department by Whittaker Chambers, the reformed spy and traitor who was the accuser in the Hiss case. Duggan went out a window and whether he jumped or fell remains to be learned but probably won't.

DURING THE HISS TRIAL, both Weisses haunted the court day after day. And when Dr. Carl Singer, a psychiatrist, was planted conspicuously in the courtroom in a manner to instruct to the jury that Chambers, the object of his scrutiny, was crazy, Weiss was busy as a bird dog.

He trotted to and fro, whispering to Singer and quietly stirring up excitement although he had no proclaimed interest in the case. On the basis of his power over Bubblehead Field, he provoked a suspicion that he was the chairman of some finance committee of the defense.

That defense obviously was very expensive. Lloyd Paul Stryker, the chief counsel, is of that enviable class known to the trade as per diem man and his per diem is \$1,000, give or take a little.

There were four other lawyers and the Hiss people obviously had run a private Gestapo or FBI for months, investigating people and propositions, all at great expense.

That great organization for a penniless man cost at least \$100,000 and Weiss was the leading spirit although he was not of counsel. There is no doubt that others put up the money and your speculations may be guided by the fact that Weiss had successfully exploited the weakness of the Long Island lame-brain in the past.

But the Hiss trial is a mere indicative afterthought. The weird, frightening exploitation of American emotions, the political manipulation of "minorities" by clever men using witless money were phenomena that never were suspected by the victims, nor, for that matter, by the press.

New York World Telegram, Friday, September 23, 1949

Improper Role for Judge.

As a result of last summer's unseemly appearance of two U.S. Supreme Court Justices, Frankfurter and Reed, as character witnesses in the Hiss trial, an American Bar Assn. special committee is to study and report on the propriety of judges testifying, whether voluntarily or under subpoena, as character witnesses in criminal cases.

Hiram C. Todd, well-known veteran special prosecutor, already furnishes the committee past instances strongly showing the need of a new canon of judicial ethics. Among his instances Mr. Todd cites the following:

"About 20 years ago when, as a special federal Assistant Attorney General, I was prosecuting Gaston Means and Thomas B. Felder, the late former Judge Martin T. Manton, who was then the presiding judge of our Circuit Court of Appeals, gave character testimony as to Felder in the United States District Court, sitting in the same building which then housed the U.S. Circuit Court of Appeals.

"Means and Felder, having been convicted, appealed to the Circuit Court of Appeals. When their case was reached on the calendar Judge Manton was presiding, and it became necessary for me to call his attention to the fact that he had acted as a character witness for Felder, before he excused himself and left the bench."

Naturally no such judicial callousness in Manton's case could possibly surprise the World-Telegram which dug up most of the shocking evidence on which Manton was removed and sent to federal prison.

But we believe many good judges today, particularly appeals judges, might welcome ethical canon or even plain law that flatly forbade them to become character witnesses in criminal cases.

The City Bar Assn. should join the larger federal group in seeking to protect judges from the anomalous role of character witnesses in parts of their own trial courts.